THE OFFICES OF *Constables, Church-wardens, Overseers of the Poor, Supravisors of the High-wayes, Treasurers of the County-Stock: And some other lesser Country Officers, plainly and lively set forth.*

¶ In Two Books.

The first Book being of the Office of the *High-Constable, Petit-Constable, Borsholder, Tything-man, &c.*

By William Sheppard, Esq;

D LONDON,
Printed by *Ric. Hodgkinsonne*, for *E. Dod*, and *N. Ekins*, at the Gun in *Ivy-Lane*. 1652.

Tx
S549com

10/17/38

To all his Loving Country-men.

MY *Deer Friends, whoſe welfare as I much deſire, ſo ſhall I as I may endeavour. And having conſidered within my ſelf, how commonly the moſt of you are neceſſarily called to take upon you the offices of* Conſtable, Church-warden, Over-ſeer of the Poor, Supraviſor of the Highwayes, *and ſome other like offices, how large the extent of theſe offices are, and how little*

knowledge and skill the moſt of you have therein ; whence it cometh to paſſe, that in execution of them, ſometimes on the right hand you exceed your Authority, and fall into the hands of the mercileſſe Malefactor ; & ſometime (and more commonly) on the left hand, you fall ſhort of your Authority (for he that goeth in the dark knoweth not where hee goeth) and doe not ſo much as you may, which proves a diſcouragement to the officer, and encouragement to the offendor, and hindrance of Juſtice. For the Cure hereof, I did heretofore in one Book give you a draught of all theſe leſſer Country offices

and

and therewith alſo an Epitome of ſome of the moſt common and uſefull Statutes referring thereunto. This Book I have now again reviſed, corrected, and by many alterations and additions fitted to our preſent time; and for more conveniency of Purchaſe and Portage, divided it into two parts: The firſt part whereof, containing the office of the High *and* Petit-Conſtable, Borſholder, *and ſuch like officers you have in this Book, and ſo I deliver it into your hands, as a Looking-glaſſe for you. And oh that I could now perſwade you all to buy it and read it, to know what you may,*

may, and what you are to doe. And when you know it; in the name of God doe it, and feare not: for in so doing, you shall doe God much service, and your Country much good. And this that you may doe, shall be alwaies the prayer of

your Loving

Country-man,

W. S.

CHAP. I.

Of *Constables*, *Tithing-men*, and the like Officers, and their Office.

SECT. I.

What they are, and how many sorts of them there are.

TO omit to shew the Etymologie and diverse acceptance of the word *Constable*; the Antiquity and Originall of the Office of the *Constable* wee are now to treat of; and the divers kinds of Officers of this name in the Common-wealth, and to take up so much only as may serve to our present purpose. The *Constables* (whose Offices wee intend to speake of) are said to bee Officers of the Common-Wealth, appointed for the maintenance of the Peace thereof, and to be attendant to Court-Leetes,

Statute of winchester. 1. Lamb. of the Duty of Constables. Finches Lawe 336. Sir Tho. Smyth de Repub. l. 2. cap. 25. 12 H. 7. 18.

Justices of Peace and Coroners, for the execution of their Warrants within their Precinct and Liberties: And Master *Lambard* saith the name of a *Constable* in a Hundred or Franchise doth meane, That hee is an Officer that did support the Kings Majestie in the maintenance of his Peace, within the Precinct of his Hundred or Franchise: And of these *Constables*, there are now said to bee two sorts. The first sort are the *high-Constables*, which are for the whole Hundred, Lathe, Rape or Wapentake, the which doe comprehend many Parishes, Tythings and Villages; and therfore these Officers, in respect of Place, have a more large command then *pettie-Constables* have. These Officers were ordayned by the Statute of *Winchester*, which doth appoint (amongst other things) That for the better keeping of the Peace, two *Constables* in every Hundred and Franchise shall make the view of Armour; and they are called *high-Constables*, in comparison of the *Constables* or *petty-Constables* that bee in the Townes of Parishes within their Hundreds or Franchises, whose duty is likewise to maintaine the Peace within the severall limits of their Townes or Parishes: And of these *high-Constables* there were to bee, and were anciently, two in every Hundred, but at this day there is but one in many Hundreds. The other sort of *Constables*, are the *petty-Constables*, or the *under-Constables*, who are only for some part, as for a Towne, Parish, Village, Tything or Hamlet within the Hundred (for every Hundred hath his *high-Constable*, and every severall Tything within

within the Hundred hath his *petty-Constable*, *Tything-man*, or the like within it,) so that the Command of the *petty-Constable* is only in one part of the Precinct of the *high-Constable*, but otherwise for his Authority, by the ancient Common-Lawes ; his Office (as far as his Precinct doth extend) is the same with the Office of the *high-Constable* over the whole Hundred. The *Tything-man* , *Borsholder*, *Borrow-Head* or *Head-Borrow*, *Third-Borrow* and *Chiefe Pledge* , or by whatsoever names they bee called in any Townes, Parishes, Tythings, Burrowes, Hamlets or other places, and their offices are in effect , in most places, but one and the same : For in some Counties this officer is called by one name , and in other Counties by another name ; As in *Kent* hee is called *Borsholder* ; in *Warwick-shire* *Thirdborow*, and in other places hee is called *Constable*, and in some places hee is called *Tything-man* ; for hee that is called and sworn the *Tything-man* of any Place, is (in effect) the *constable* of the place : And therefore in such places, for the most part, there is no other officer called or sworne by the name of a *Constable* ; for, as *petty Constables* about the beginning of the reigne of *Edward* the third, were devised in Townes and Parishes for the aid of the *Constables* of the Hundred, so afterward *Borsholders*, and such like, were used as *petty-Constables* within their owne Tythings and Burrowes. But if it bee so (as it is in some few places) that there is one *Constable* for the Commonwealth, and there is also one or more *Tything-men*, and the *Constable* doth

execute all the Office, and the *Tything-men* are but as attendants on him, and seeme to have but little power; or it bee as in some places the *Tything-man* is to do Service to the Lord of the Mannor, rather then to the Commonwealth, and hee is a customary *Tything-man* chosen at the Lords Court. Or it bee so that there are two or more *Tything men*, and one of them is for the Commonwealth, to execute the office of *Constable*, and is alwaies chosen at the Leete, and this *Tything-man*, time out of mind, hath beene used to doe nothing about the office of the *Constable* but to doe other things; in these Cases the custome of the place may and must bee continued, and such *Tything-men* shall not be compelled to doe more then by custome they have used to doe: Howbeit otherwise, and in all other places, all these officers are comprehended within this word *Constable*, and all these offices are contained within this Office.

SECT. 2.

Of the choyce and swearing of High Constables, *and* Petit-Constables.

THE *High-Constables* are and may be chosen and made, eyther by the Justices of the Peace, at their quarter Sessions, or at the Leete, and there eyther by the Steward of the Leete himselfe, or by the presentment of the grand-Inquest, in the Leete, as the cour-

and cuſtome of the place is: And theſe were heretofore choſen and ſworne in the Sheriffes turne. The *Petty-Conſtables* are and may moſt properly bee choſen by the Steward of the Leete himſelfe, or the Preſentment of the Inqueſt in the Leete; But theſe alſo are choſen by the Juſtices of the Peace at their quarter Seſſions. And all theſe Officers are and may bee choſen for one or two yeeres, according to the cuſtome of the place. And when they are choſen at the Quarter Seſſions, or at the Leete, they doe uſually take their Oathes there where they are choſen; or they may, and ſomtimes they doe take their Oathes before one Juſtice of Peace, at another time and place. A *Petty Conſtable* alſo in ſome ſpeciall Caſe may bee made and appointed by one Juſtice of Peace, and that out of Seſſions, as in caſe where one that is choſen *Conſtable* doth refuſe the office, or one that is made *Conſtable* is removed out of his office, or is dead; in theſe caſes, in reſpect of the neceſſitie, and for a preſent ſupply, one Juſtice of Peace alone may Elect and Sweare a new Officer, and then eſpecially when the Quarter Seſſions and the Leete are far off, and not to bee kept in a great time after: And as touching this matter theſe things are to bee known.

Dalt: Juſt. of P. 37. 38.

Reſol. of the Judges:

Coo. 8. 41. 4°. *Titz. off. Juſt. of P.* 101. *Lamb. in the Conſt. duty* 10. 11. *Dalt. Juſt. P.* 322. 323. 18 H 6. 13. 21 *Ed* 3 2. 12 *H.* 7. 2 *H.* 4. 15. *Mar.*

1. Where the cuſtome of the place is, for the Jury in the Leete to chooſe theſe officers, there they may and muſt bee choſen ſtill; for this is a good way and cuſtome, and the beſt way of chooſing theſe officers; but where the cuſtome is otherwiſe there it may be otherwiſe.

2. Which way ſoever they bee choſen there

cap. 10. *Fitz. Leet in toto. Marb. cap.* 10.

must bee great care had, that those that are choſen bee fit perſons to execute the office, and therein theſe things muſt bee obſerved. 1. The perſon choſen, muſt bee a Lay, and not a Clergy-perſon, for all Clergymen are exempt from this ſervice, as they are from attendance at the Leete; and therefore if any ſuch perſon ſhall bee choſen to this office, he may get himſelfe diſcharged by a Writ; whereof ſee afterwards. 2. The party choſen, as hee muſt bee a lay perſon, ſo hee muſt bee a lay man, not a Lay-woman, & therefore a widowe or maid, albeit ſhee keepe House of herſelfe, and dwell in a houſe whoſe owner hath beene uſed to ſerve in this office, is not to be choſen to this Office, no more then ſhe is to doe ſuite to the Leet. 3. The party choſen, as he muſt be a man, ſo he muſt be *ideneus homo*, i. e. a fit man, & that firſt for his knowledge, that he doth in ſome good meaſure underſtand what he doth & ought to do. And therefore a man that is *non compos mentis*, as an Ideot or mad man, an Infant, or the like, cannot bee a fit man. 2. Hee muſt bee fit for his honeſtie, that he may bee likely to execute his office truely without ill affection or partiallity, and therefore it ſeemes a ſcandalous liver, a malicious and contentious man cannot bee a fit man. 3. Hee muſt bee fit for his abilitie of Body and Eſtate. And therefore an old, weake, ſick or otherwiſe, impotent man; or a poore needy man that lives only by his labour, cannot bee a fit man. It was therefore by ſpeciall direction from the King, in *An. Dom.* 16 given in charge that the *Conſtables* in all par-

ſhe

thes should bee chosen of the able sort of parishioners; and that the office should not bee put upon the poorer sort; the which if it were well observed, would no doubt much further the execution of Justice through the Nation. And if because the common course is every where to put these offices upon the meaner sort of men, the more able sort doe thinke themselves thereby exempted, they are therein much deceived; for it is not much to be doubted but that all persons that are bound to doe suite in the Leete, are bound to serve in these offices, that are after a sort appendant to the Leete; and therefore if any such person bee called and chosen thereunto, he must and will bee compelled to execute the same: Howbeit it is deemed an unfit and indiscreet part to elect any to these offices, that in respect of their other offices, callings or professions, are presumed to have so much other imployment that they have not leisure to attend upon this so much as is required. And hence it is that the Justice of Peace, Sheriffs, Lawyers, Attornies, and such like Persons, are selldome or never chosen to these offices; For if any Steward or Jury in a Leete should bee so indiscreete as to choose any such men to these offices, the Justices of Peace, upon complaint to them thereof, will no doubt bee so discreete as to discharge them again, and elect others in their place; for hee cannot bee fit for that office which hee hath no leisure to waite and attend upon: But otherwise it is not only lawfull but convenient also that these officers bee chosen, in all places of the abler sort of men.

And therefore it hath beene of late resolved by the Judges, That if a man had made himself one of the Kings servants extraordinary, that this would not exempt him from the execution of this office, but hee must have beene made *Constable* notwithstanding. 4. An Infant under the age of twenty one yeeres may not of right bee compelled to serve in these offices. And yet if such a one be chosen and sworne, it seemes hee may execute the Office as another man may doe: And therefore if a young man of the age of twenty yeeres, or thereabouts (especially if hee be such a one as hath the growth wisdome and courage of an elder man, as sometimes it falleth out) be chosen to this office, he shall do well to take it upon him and execute it. An old man also aged sixtie, or thereabouts, (especially if his strength of body and mind bee not much abated) may be compelled to serve in these Offices. 5. If a man live within one Hundred or Tything, and have land only within another Hundred or Tything, hee may not bee chosen to serve in this Office in the place where his Land is; for if hee have no House upon his Land, it seemes neyther hee nor his Tenant is bound to serve in these Offices at all, in respect of the Land: For men are bound to serve in these Offices in respect of their Persons and Residency, and not in respect of their Land: But if hee have a house upon his land, and a Tenant dwelling in it, and hee bee a sufficient man and able to serve the Office, hee may be chosen and made to serve it, but not the Landlord, for perhaps hee may bee chosen to this or some other office in the place where he dwells,

and

and a man can doe ſervice with his Body but in one place at one time. And yet if the Caſe bee ſo that a man hath two ſeverall Houſes in two ſeverall precincts, and within ſeverall Leetes, and hee doe live ſomtimes at the one houſe and ſomtimes at the other houſe, in this caſe hee may perhaps bee made an Officer at eyther of the Leetes, within eyther of the places, if hee bee there dwelling at the time when the Leete is kept; for a man may doe corporall ſervice at two places, at ſeverall times. But if two Tythings bee within one Leete, and one man hath houſes in both the Tythings, in this caſe it ſeemeth doubtfull, whether albeit hee doe live in the one Tything, hee may not bee compelled to ſerve in this office for his Houſe in the other Tything, eſpecially if the Tythings be neere, and he keep no Tenant in his Houſe fit to undergoe the office when it ſhall come to his turne; wherein, as in all other ſuch like caſes a due conſideration muſt be had of all circumſtances.

3. By that which hath beene ſaid it may appeare then, how unreaſonable a thing it is that theſe offices ſhould follow the Houſes, or that two or three in a Tything, and no more, ſhould alwaies execute the ſame (as in ſome places hath beene uſed) and therefore it hath been well and wiſely altered by the Order of the Juſtices in ſome if not in all places. *Removing of a Conſtable.*

4. If there bee a man unfit for any of the cauſes afore ſaid choſen and appointed to this office in a Leete, eyther by the Stewards nomination, or by the Preſentment of the Jurie,

or

or by one Justice of Peace, only, out of Sessions, such a man may bee removed and discharged againe, by Order of the Justices of Peace, at their Sessions, and another man more fit may bee by them then and there elected and sworne in his roome that is so removed. But if the man elected and made *Constable* in a Leete, bee a fit man, the Justices of the Peace may not remove him and appoint another: And so it hath been agreed by the Judges. And yet if the Justices of the Peace shall remove such a man chosen in a Leet, that is a fit man, it seemes there is no remedy but by complaint to the Lord chiefe Justices, or the Judges of the Circuit, &c. If the *Constable* bee chosen by the Jurie in a Leete, and the man chosen bee unfit, and the Steward of the Leete doth perceive it; in this case it seemes the Steward himselfe may elect and sweare another man, more fit, and refuse and discharge him that is so chosen by the Jury. And it is held also; That in default of the Leet, or otherwise where there shall bee just cause, every Justice of Peace *ex officio* may remove the old *Constable* and choose and sweare a new one; and that for this purpose hee may send forth his Warrant to require such Person to come in and take his Oath before such Justice of the Peace. Also there was (as it seemes) another way of discharging and removing of this officer, by a Warrant from the King to the Sheriffe of the Countie, and to the *high-Constable* of the Hundred, whereof see a president in *Daltons Just. of Peace. fol.* 322.

Custome. Prescription.

5. No custome or prescription to exempt any

ny man not exempted as before, or to warrant an undue election, contrary to the rules before laid downe will availe or ſhall be alowed unto any perſon or Tything.

6. If a man bee choſen to this office in a Leete, and hee refuſe to take the charge therof upon him, hee may bee fined for this contempt in the ſame Leete. And if hee be choſen at the Seſſions, or by one Juſtice of Peace out of Seſſions, and hee refuſe to take his oath, he may be Indicted and fined at the Seſſions for this contempt. *Numb. 7. Deputy.*

7. A *Conſtable* choſen and ſworne, may make what Deputies hee will, under himſelfe, to execute his Office, for there is no doubt but in time of ſickneſſe, and at other times alſo hee may if hee will execute his Office by Deputy, but the Officer himſelfe muſt expect to anſwere for all the miſ-doings of his Deputies. And if one man bee choſen an Officer, and hee deſire to have a Deputy, and to have him ſworne and allowed, if the Depury bee ſufficient, and bee allowed and ſworne, in this caſe the Deputy, and not the other, is the Officer; and therefore the Deputy muſt anſwere for himſelfe, and his doings, and not the other for him. But the making of a Depury in this caſe, is rather by tolleration then by Lawe, and ſo hath it beene delivered by the Judges.

The

The forme of the Oath of a *Constable.*

YOu shall sweare well and faithfully to serve the Commonwealth, in the Office of a Constable, *You shall see the publique Peace to bee well and duly kept and preserved, to the utmost of your power; you shall arest all such persons as in your presence shall ride or go armed offensively, or shall commit or make any Riot, affray, or other breach of the publique Peace. You shall doe your best endeavour upon complaint to you made to apprehend all Felons, Barators & Riotors, or persons riotously assembled, and if any such offendors shall make resistance, with force you shall levie* Hue *and* Cry, *and shall pursue them untill they bee taken, you shall doe your best endeavour that the watch in your towne bee duely kept, and that* Hue *and* Cry *bee duely pursued according to the Statutes: And that the Statute made for the punishing of Rogues, Vagabonds and Night-walkers, and such other idle and wandring persons coming within your liberties bee duely put in execution. You shall have a watchfull Eye to such persons as shall maintaine or keepe any common house or place where any unlawfull games or playes are or shall bee used, as also to such as shall frequent or use such places, or shall exercise or use any unlawfull games or playes there or elsewhere, contrary to the Statute. And you shall have a care for the maintenance of Archerie according to*

the

the Statute. At your Assizes, Sessions or Leete you shall present all and every the offences committed or done contrary to the Statutes made and provided for the restraint of the inordinate haunting and tipling in Taverns, Innes, Alehouses and other Victualing houses, and for the repressing of drunkennesse and prophane swearing. You shall true Presentment make of all blood-shedding, affraies, outcryes, Rescues and other offences committed or done against the publique Peace within your limits. You shall well and duly execute all Precepts and warrants to you directed, from the Justices of the Peace and others in Authority in this County. And you shall well and duly, according to your Knowledge, Power and Abilitie doe and execute all other things belonging to the Office of a Constable, *so long as you shall continue in the said Office:*

So help you God.

Or thus more briefly.

YOu shall sweare that you shall well and duly execute the Office of Constable [*or* Tything man] *for the Parish* [*or* Tything] *of* S. *for this next yeere* [*or halfe a yeere, as the Case is*] *and untill another bee sworne in your roome, or you shall bee legally discharged thereof.* So help you God.

CHAP.

CHAP. II.

Of the Power and Duty of the High-Constable *and* petty-Constable *in common, and one with another; And of some few things the* petty-Constable *and not the* High-Constable *is to doe.*

THESE Officers and their Offices, as they had a far greater Authority then now they have, so have they beene of farre greater account then now they bee. For by the ancient common Lawes before there were any Justices of Peace made, the *Constables* of every Village had a kinde of Rule within the same Village, and were to keepe the Peace there; and therefore the *Constable* was called the Ruler of the Village, and it is thought that at that time the Authority and account of these Officers was much

much like to the Authoritie and account of the Iuſtices of the Peace at this day; and therefore they had then the ſame Titles of *Conſervators of the Peace* given unto them, which is given to the Juſtices of Peace at this day, *Sed tempora mutantur & nos mutamur in illis*: For this is vaniſhed now, and there is but little ſigne of it; for at this day they doe for the moſt part but execute the Commands of others and yet ſomwhat there is remayning, as the poteſteps of what formerly they had, the which to ſet forth is our labour in this place: For the opening whereof wee ſhall obſerve this method. Firſt wee ſhall ſhew what all *Conſtables*, High and Low, *Tything men*, *Borſholders*, *&c.* may and muſt doe, and what is their common and equall Duty and Authority, and then next what the *High-Conſtable* may and muſt doe more then the *petty-Conſtable*, *&c.* and wherein theſe Officers have a diſtinct and ſeverall duty one from another, and then wee ſhall ſhew what the *Conſtables* of ſome great Townes may doe in ſome ſpeciall Caſes.

SECT. I.

Certaine generall Rules and Caſes about theſe things.

FOR the further cleering and opening of theſe things, obſerve theſe Rules and Caſes following.

1. Every of theſe *Borſholders*, *Tything-men*, *Numb.* 1.

Borrow-

Lamb. in the Duty of Constables. f. 6.

Borrow-heads, Headborows, Thirdborows and Chief-Pledges, hath two severall Offices at this day, the one being his Ancient and first Office, and the other his later made Office. his first office began thus. By the ancient Lawes of this Nation (before the coming of King *William* the Conqueror) it was ordained for the more sure keeping of the Peace, and for the better repressing of Theeves and Robbers, that all free borne men should cast themselves into severall Companies, by ten in each Company; and that every of those ten men of the company should bee surety and pledge for the forth-comming of his fellowes; so that if any harme were done by any of these ten against the Peace, then the rest of the ten should bee amerced, if hee of their Company that did the harme should flie and were not forthcomming to answere to that wherewith hee should bee charged; and for this cause these Companies bee yet in some places of *England* called *Borses*, of the word *Borh* Pledges or Sureties; albeit in the Westerne parts of this Nation they be commonly named *Tythings*, because they contain the number of Ten men, with their families; and even as ten times ten doe make an hundred, so because it was then also appointed that ten of these Companies should at certain times meete together for their matters of greatest weight, therefore that generall Assembly or Court was, and yet is, called a *Hundred*. And it was then also ordayned, That if any man were of so evill credit that hee could not get himselfe to bee received into one of these *Tything*

things or *Boroes*, then hee ſhould bee ſhut up in priſon, as a man unworthie to live at liberty amongſt men abroad; and whereas every of theſe *Tythings* or *Boroes* did uſe to make choyce of one man amongſt themſelves to ſpeake and to doe in the name of them all, he was therefore in ſome places called the *Tything-man*, in other places the *Boroes-Elder*, now called *Boſholder* in ſome places, in other places the *Boroe-head* or *Headborow*, and in ſome other places the *Chief Pledg*, which laſt name doth expound the other three that are next before it; For *Head* or *Elder* of the *Boroes*, and *Chief* of the *Pledges* are all one, and in ſome Shires where every *Thyrdborow* hath a *Conſtable*, there the officers of the other two are called *Thyrdborowes*. Moreover in theſe *Tythings* or *Borbes*, ſundry good orders were obſerved, and amongſt others: Firſt, That every man of the age of twelve yeeres ſhould bee ſworne to the King. Then that no man ſhould bee ſuffered to dwell in any Towne or place unleſſe hee were alſo received into ſome ſuch Suretyſhip and *Pledge* as is aforeſaid; And that if any of theſe Pledges were impriſoned for his offence, then hee ought not to bee delivered without the aſſent of the reſt of his Pledges. Again, That no man might remove out of one *Tything* or *Boroe*, to dwell in another, without lawfull warrant in that behalfe. Laſtly, That every of theſe *Pledges* ſhould yeerely bee preſented and brought forth by their *chief Pledg*, at a generall Aſſemblie for that purpoſe, which at this day is called *The view of Franke Pledg*.

And of this ancient office there is yet some shew in our Leets or Law dayes, and well were it for us if the very substance thereof were throughly performed at this day. The latter office of these officers, is in manner all one with the office of a *petty-Constable*. Secondly, some things these officers are to doe in their office, they are to doe *Ex Officio*, and by the duties of their places without any command from others, and for other they must doe them by command from others, and without this they neede not doe it, nor can they justifie the doing thereof. Thirdly, Some part of their offices are derived from the ancient Common Lawe, and other parts from certaine Acts of Parliament newly made, whereby they are further enabled or charged then they were before by the common law. Fourthly, The office of the *petty Constable* and *high Constable* is one and the same for most things only the *high Constable* is over all the *Hundred*, & the power of the other is only in his *Parish* or *Tything*. Fiftly, That whatsoever the Law doth require of these officers by the duty of their place that it doth give them authoritie to doe, & whatsoever the law doth give them authority to doe, that for the most part the Lawe doth enjoyne them by the duty of their place to doe. Sixtly, Whatsoever any other man may do in those things whereabout the office of a *Constable* is conversant, the *Constable* may much more doe: And therefore a *Constable* may without doubt part affrayors, or keep them asunder in a Roome of his owne or of another mans house, for a time, to prevent mischiefe

Numb. 2.

Numb. 3.

Numb. 4.

Numb. 5.

Dalton's J. P. 28.296. Fitz. Just. P. 30. Lamb. Just. of Peace 240.

Numb. 6. *What every man may doe in the Constables office.*

And if hee ſee one coming with a weapon drawne, or the like, intending to take part in the affray, he may lay hands on him and ſtay him, and he may arreſt or impriſon one hee both know or ſuſpect to have committed a Felony, or one that is apparently about to commit a Felony, or one that hath dangerouſly wounded another, or night walkers that are dangerouſly ſuſpicious, or one that keepeth or uſeth any Gunne, &c. contrary to the Statute, or the like; for in all theſe caſes any other private man that is no officer, may doe the ſame and juſtifie it. Seventhly, That which ſhall bee ſaid of one of theſe officers muſt regularly bee underſtood of all the reſt, except it bee in the caſes wherein the office of the *high Conſtable* of the *Hundred*, and of the head *Conſtable* of a Towne are in ſome few things ſingular. So that as the *Conſtable* of a Pariſh is to labour to keepe the Peace, ſuppreſſe Felons, execute the Juſtice of Peace his Warrant, and the like: So is the *Tythingman borſholder*, *Borowhead*, *Thirdborow* and *chief Pledge* of a Pariſh to doe the ſame; and this officer, where hee is called by this name within his Precinct hath the ſame authority in all things as the *Conſtable* hath within his Precinct. Eighthly, All the caſes herein ſet downe touching the office and duty of theſe Officers muſt be ſo underſtood as to give them authoritie, and to charge them within their owne limits and precincts only, and no farther; for howſoever theſe Officers are bound to looke to the Peace, to ſuppreſſe Felons, execute the Juſtices Warrants, and the like, yet

Arreſt.

Felons.

Nightwalkers.

Numb. 7.

Numb. 8.

all this is to bee understood within their owne *Hundreds*, *Parishes* and *Tythings* only, within which only they have authority and power; except it bee in some speciall cases, shewed after; for out of the compasse of their *Hundreds*, *Tythings* and *Parishes*, they have no more authority then a private man, neither are they more bound there to doe any of the things that doe belong to their office then any other man is. Ninthly, That in case of pursuite and apprehension of Felons, and carrying them to Gaole, in case of suppressing Insurrections, allaying of affrayes, keeping of the Peace, execution of the Warrants of Justices of the Peace, and the like, any of these officers (when neede shall bee) may require the ayd and assistance of so many of his Neighbours, or others, of all sorts of able men, above fifteene yeeres of age, as he shall thinke meete; And so also hee may doe in case where a man is hurt and dangerously wounded, for the apprehending and arresting of him that gave the wound; And so also he may doe when a Warrant is sent unto him for the apprehending of a popish Recusant, by speciall provision of the Statute of 3 *Jac. cap.* 4. And if any such person being required by any of these officers, in any such case, shall refuse or neglect to ayd them, hee may be fined and imprisoned for it at the Quarter Sessions. Tenthly, These Officers, if they cannot otherwise get in, may justifie the breaking open of any mans house in these Cases following (*viz.*) to search after or arrest any person for Treason or Felony, or suspici-

Numb. 9. *Ayde* *Broo. Ry.* 3. *Tresp.* 431. 3 *H.* 7. 10. 13 *H.* 7. 10. 38 *Ed.* 3. 8. *Dalt. J. P.* 303.

Numb. 10. *Breaking of a house.* *Coo.* 5. 92. *Dalt. J. P.* 176. 177. 13 *Ed.* 4. 9. 3 *Jac.* 4.

on

on thereof, that is or is thought to bee in the Houſe, to take a man that hath dangerouſly hurt another and is fled into the Houſe; to appeaſe an affray that is in the Houſe; to apprehend a popiſh Recuſant, upon a Warrant to breake open the houſe, and upon a Warrant for the Peace or good Behaviour, by the opinion of *Popham* and *Clerke*, Judges of of Aſſiſe at *Cambridg*. And ſo generally in all caſes wherein the Keepers of the Liberty are Party, or where they have any Intereſt in the buſineſſe: But in all theſe caſes the officer, before hee doth breake open the Houſe, muſt ſignifie the cauſe of his comming, and require them to open the doores. Eleventhly, where an officer hath power to areſt a man, and being comming to doe it the party doth flye into another *County* or *Hundred*; in this caſe the officer may preſently purſue him whitherſoever hee ſhall ſo flie, and arreſt him there, albeit it bee in another *Hundred* or *Countie*, out of his owne Precinct. Twelfthly, If a man commit a Felony in one Countie, and bee arreſted in another Countie for the ſame, by the freſh purſuit of the officer, or ſome other purſuing him thither, in this caſe the Priſoner muſt bee carried to the Gaole of the Countie where hee is taken, and not to the Gaole of the other Countie; And if a *Conſtable* bee comming to arreſt affrayors and they flie into another *County*, and hee purſue and take them there, in this caſe hee muſt bring them before a Juſtice of Peace of the ſame Countie where they are taken; where the officer can doe no more then a private man:

Numb. 11. *Freſh purſuit Pl.* 37. *Dalt. J. Peace.* 23.

Arreſt out of the Officers precinct.

To what Gaole a Priſoner may bee Carried. Numb. 12. *Daltons J. P.* 297. 298.

But if the flight bee only into a priviledged or other place in the same County; in this case the officer may in his fresh pursuit thither take him and dispose of him as an officer, and as if hee tooke him within the limits of his own Parish. And if a *Constable* arrest a man upon a Warrant from a Justice of Peace, and after the arrest the party (of his owne wrong) getteth away and flyeth into another County in this case the officer may pursue him and take him there, and bring him back to the same Justice of Peace from whom the Warrant came. Thirteenthly, It is dangerous to oppose or hinder these officers in the doeing and execution of their office: For to kill any one of these officers in the doing of his office, is willfull murder, and causeth unavoydable death; or to beat or wound any such officer in the doing of his office, is a great Trespasse to bee recompensed with great Dammages. And otherwise to abuse any such officer, in the doing of his office, is a great Misdemeanour that may cause the offendor to bee bound to the good Behavior. And if the party that is to be arrested shall make resistance, make an assault upon the officer, or labour to get away, the officer may justifie the beating, yea and the wounding of him also, or hee may imprison him in the Stocks for the same. But upon a Warrant of a Justice of Peace, for the Peace or good Behaviour; if the party resist or fly before hee bee arrested, it is said the officer cannot justifie the beating of him; yet if the officer please hee may soone arrest him, for if hee bee a knowne officer, and doe but say to

Numb. 13. *Resisting an officer.* *Coo.* 4. 40. 9. 96. *Broo. Tres.* 296. 21 H. 7. 39 *Lamb. J.P.* 29. 298. *Dalt. J.P.* 297. *Murder.* *Trespasse.* *Good behavior.* *Beating.* *Stocks.*

the Party: *I Arreſt you in the name of the Keepers of the Liberty of* England, albeit hee never lay hands upon him; this is an Arreſt in Lawe. And if a Warrant bee ſent to any of theſe officers to arreſt one Indicted of Felony, hee may juſtifie the killing of the Party, if hee cannot otherwiſe take him, or being taken, if hee reſiſt and fly when hee is taken. Fourteenthly, Where any of theſe officers hath arreſted a man, and hath power to impriſon him, it is held that hee may not impriſon him in his owne houſe, or in any other place but the common priſon, and the priſon alſo of the ſame County; for hee may not carry him to the Gaole of another County, except it bee in ſome ſpeciall Caſe, as where one Gaole doth ſerve for divers Counties, or the like, and yet upon reaſonable requeſt, as becauſe it is night, or becauſe the officer doth want ſtrength enough to carry him to the Gaol or to the Juſtice, or becauſe hee doth feare a Reſcue will bee made upon him, or the like; in theſe Caſes the officer may put the party in the Stocks, and keepe him there for a reaſonable time *viz.* untill the morning, if it bee at night, or untill hee can bee conveniently provided for ſtrength and ayd to carry him to priſon, or to the Juſtice of Peace; But ſome ſay that an officer may keep a Priſoner in the officers owne, or in another mans houſe, for a time convenient, and juſtifie it; whereof others much doubt: And therefore the ſafe way is to keepe him in the Stocks, or carry him to Priſon. Fifteenthly, If the priſoner put in the Stocks bee taken for Felony or ſuſpicion

And ſo was the opinion of the Lord Keeper, & the Lord Chief Juſtice 5. Car. *Murder juſtifiable.* *Numb.* 14. *Fitz. Cor.* 61. 288. 328. *when an officer may impriſon a man in another place then the common Priſon* *Fitz. Barra.* 202. 20 *E.* 4. 6. 10 *Ed.* 4. 17. 22 *Ed.* 4. 35. 3 *H.* 4 9. *Kelw.* 45. 11 *E.* 47. *Stocks.* *Lamb. J.P.* 2. *cap.* 3. *Numb.* 15. *How an officer may uſe a Priſoner.*

ſpicion of Felony; in this caſe the officer may lock the Stocks; and if need bee, hee may alſo put Irons upon the Priſoner. And if the officer bee to convey him to the Gaole, or to the Juſtice of Peace, hee may pinion him, or otherwiſe make him ſure that hee ſhall not eſcape. Sixteenthly, If a private man, that is no officer, take another man for Felony, or ſuſpion of Felony, within the Precinct of any of theſe officers, and bring and deliver the Priſoner to the officer of the place: in this caſe the officer is bound to ſee the Priſoner ſafely conveyed to the Gaole: for if hee ſuffer him to eſcape, he muſt anſwer for him: And ſo alſo it is, if there bee no officer in the place where the Felon is taken, and the party carry him and deliver him to the officer of the next place: for it ſeems this officer alſo in this caſe, is bound to look to him at his peril.

Dalt. J. P. 300.

Numb. 16.

10 Ed. 4. 17.

Fitz. office of J. P. 201.

Eſcape.

Seventeenthly, As touching the execution of the Warrant of Juſtices of the Peace, theſe things are to bee known. 1. In all caſes, where any Warrant is ſent from any Juſtice of Peace, to any of theſe officers, touching any matter whatſoever, concerning the office of the Juſtice of Peace; it ſeems hee is bound to execute it. And therefore it ſeems, that in all caſes where any Statute doth enable a Juſtice of Peace to apprehend any perſon to be brought before him, or to commit any perſon to the Gaole, as in the caſes of thoſe that keep unlawfull Games in their houſes, or haunt ſuch houſes, or in the caſe of men that ſhoot in, or carry Gunnes, or the like; That in all theſe caſes the Juſtices of Peace are to command theſe officers

Numb. 17.

How far theſe officers are bound to obey the warrants of the Juſtice of the Peace.

31 H. 8. 9 6.

See the Conſtables oath, Kytch. 47.

ficers, and they are to obey them. 2. These officers must with all due respect, receive the Warrants of the Justices of Peace: for if any Warrant bee sent from a Justice of Peace, to any one of these officers, and he shall shew any neglect or contempt of it, as by casting it into the dyrt, &c. or doe not with all care, secrecy and diligence execute the same; these are misdemeanors punishable: and for either of these misdemeanors, the party offending may eyther be bouud to the good behavior, or be Indicted and fined. And by the Statute of 27 *H.*8. *cap.*5. there is a speciall charge laid upon these officers, within the Counties of *Wales*, That they bee carefull to execute the Warrants of the Justices of the Peace there. 3. Let him then consider what hee hath to doe: For howsoever this bee true that hee is not bound to, nor may hee dispute the authority of the Justice of Peace, and whether his Warrant bee lawfull or not. For if the Justice mistake, and goe beyond his authoritie in the manner of proceeding in a thing, wherein for the matter he hath Conusance; As if hee send a Warrant to him to arrest any man for the Peace or good behaviour, without any cause; or to take a man for a Felony when none is done; yet in these and such like cases the officer is bound to execute it, and hee shall bee excused therein But if the thing whereabout the Warrant is, be such matter as is out of the jurisdiction of the Justice of Peace, and wherein he is no judge; as if he send his Warrant to the *Constable*, to levy of the goods of *J. S.* 10.l. Debt, which hee doth owe to him, or owe to another, and all

How they must receive and execute the warrants of the Justices.

Dalt. J.P. 291.

all this appeareth upon the Warrant it self
That in this and such like cases, it is agree
That the officer may refuse to execute it, a
may (not without danger) obey it. And tru
to me it seems necessary wee distinguish aga
between things apparent, and things conce
ed; and between lesser and more notori
mistakes: and it is reasonable to affirm, th
if the mistake and error of the Justice of Pea
be set down in the Warrant, and be gross a
notorious; As if he send a Warrant to levy
a man 10.l. because he hath sworn an Oath
Or send his Warrant to one of these office
to command him to sell the one half of t
Goods of a man convict before him for swea
ing. 6. Oaths, when perhaps these Goo
may bee worth 100.l. or hee send a verb
Warrant only, to one that is absent and out
his presence; or send his Warrant to the *Co*
stable of the Parish of *Dale*, as *Constable*
Dale, to levy a forfeiture upon an offendo
for and offence in *Sale*, out of his Pr
cinct, or send his Warrant to a *Constable*,
carry *J. S.* to Gaole, because hee will not p
him a Debt hee doth owe him; That in the
and such like cases, the *Constable* is not bou
to obey him, or execute it; nor shall hee b
excused if he doe it. But if the Justice of Peac
where he hath power to send a man to Pris
after ten dayes, give Warrant to send him
prison before the ten dayes be out: Or if
an Act of Parliament, he is directed to send
Warrant under his hand and seal, send it o
under his hand, or *contra*: And where hee
to send it to the *Constables* and *Churchwa*
de

dens, he ſend it to the *Conſtables* or *Church-ward us*; Or on the otherſide, and in ſuch like petit miſtakes, it ſeems reaſonable to me the officer ſhould bee excuſed, if he doe execute it; for it is a very hard thing to require of him an exact knowledge of the many Acts of Parliament, ſo variouſly and incertainly penned herein, as belong to his office, and he is in danger to bee puniſhed if he doe not execute the Juſtice of Peace Warrants. So that my advice herein to the officer is, to conſider well of the Warrant; and if he finde the thing to bee done, nothing but what is ordinary, and hath been uſed to be done by theſe officers, he is to doe it: but if it bee to doe any thing unuſuall, new, ſtrange, and extraordinary, to be well adviſed e're he doe it. *Coo.* 10. 76. 6. 54. 14 *H.* 8. 16. *Broo. F. Impr.* 8.

If this officer doe arreſt any man under pretence of a Warrant, let him bee ſure hee have the warrant firſt. For if the officer firſt arreſt, and bring the man to the Juſtice, and then get a warrant to doe it, this will not make the arreſt lawfull. 5. A warrant of a Juſtice of Peace by word of mouth, is as good in ſome Caſes as a warrant by writing: As if a Ryot, or other breach of the Peace, bee in his preſence, hee may by word of mouth command the officers, or any other to arreſt the offendors, to finde Sureties of the good Behaviour in the firſt, or Peace in the laſt Caſe; and if they refuſe to put in ſureties hee may by word of mouth command to convey them to the Gaole. But in other caſes hee cannot give warrant to an officer that is abſent and out of his *Warrant.*

his presence; and if hee send a warrant b
Message only to an officer to arrest a man an
carry him to Gaole, the Constable may refu
to doo it. 6. If any warrant come from a Ju
stice of Peace to one of these officers to doe
thing, the officer himselfe must doe it, and h
Deputy. cannot by word or writing make a Deputy, o
command another to doe it, but hee may ca
what ayd hee will. 7. In the execution
these warrants hee is to take great care that h
follow the contents of his warrant, and not
exceed it, for that may be dangerous. And y
this must bee understood, that when any thin
is commanded, all that doth necessarily con
duce to the doing of that thing, and witho
which it cannot bee done, is commanded also
And therefore all that, and so much, may be
done, albeit it bee not set downe in expres
words in the warrant. And it is said that if
warrant bee made to *J. S* and *J. K.* to arre
J. D. in this Case either of them alone ma
Cod. 9 69.6 54. make the Arrest. 8. A Constable or othe
8 Ed. 4. 15. sworne or known officer (albeit hee bee no
Dalt. I.P. 28. known to the party arrested) needes not t
shew his warrant to the man when hee com
to serve it upon him, although hee demand it
but otherwise it is when hee that is no office
shall arest a man upon a Justice of Peace war
rant, for he must shew his warrant, & the swor
or knowne officer also must upon the ar-
rest of the party declare the contents o
Cod. 9.69. of the warrant to him. 9. A Constable or the
like officer giveth sufficient notice what he is
Arest, what it is. when hee saith to the Party *I Arrest you in the name of the Keepers of the Liberty of* England

&c.

&c. for this is an arreſt in Lawe, and therefore in this caſe the party arreſted, at his peryll, muſt obey, though hee know him not to bee an officer, for if hee have no lawfull warrant, the party grieved may hereupon have his Action of falſe impriſonment againſt him.

10. The officer muſt take care that hee take the very party named in the warrant, and not another, for if a warrant bee intended againſt *J. S.* (who is the Delinquent) but it bee ſent againſt *J. D.* another man; in this caſe the officer cannot arreſt *J. S.* but muſt arreſt *J. D.*

11. If the Proſecutor for the Peace or good Behaviour, after the Warrant ſent, agree, yet the Officer muſt execute his Warrant.

18. When any one of theſe offices hath arreſted any man for any cauſe; the officer muſt take great heede that hee doe keepe the Priſoner ſafe, and not ſuffer him to eſcape, eſpecially if the arreſt bee for matter of Felony, for in this caſe, if hee willingly ſuffer him to eſcape; This offence is Felony in the officer. And be the cauſe of the areſt whatſoever it will, if the officer doe willingly or unwillingly, and negligently ſuffer him to eſcape, and doe not take him again; he ſhall bee fined for it according to his offence, by the diſcretion of thoſe that ſhall bee Judges of the cauſe; for officers in theſe caſes may require what help they will. And leſt any officer ſhould flatter himſelf, that hee may eſcape with an eaſie fine; hee is to know that the Judges of his fault, may ſet his fine equall to the value of all his goods, if his offence ſo require. And if an officer take a man upon Warrant from a Juſtice

Numb. 18. *Dalt. I. P.* 292. *Eſcape.* 11 *H.* 4. 25. *Stamf* 35.

Justice of Peace, and then letteth him goe, and taketh his word that hee shall come again to him such a day to goe to the Justice of Peace, and the party commeth not; this is an escape in the officer, for which he may bee punished, and the officer (as it seems) cannot now arest him upon this Warrant. But if the party in this, or any such like case, escape of his own wrong, without the consent of the officer, the officer in a fresh pursuit may take him again albeit hee bee out of his sight and out of his Precinct, as is before shewed. Nineteenthly, The Gaoler must receive the Prisoner offered unto him, freely, and without taking any thing of them that bring him. But it is said, That a Gaoler is not bound to receive any prisoner from an officer immediatly, but by a Justice of Peace Warrant. But it is not safe for a Gaoler to refuse such a Prisoner; for if a *Constable* may, & in some cases must, and is bound by the duty of his place, to bring some offenders to Gaole without any Warrant of a Justice of Peace (as hee is) the Gaoler is bound to receive them so brought. And if a man be arested for Felony, and the *Constable* carry him to the Gaol, and the Gaoler will not receive him, it is said the *Constable* must bring him back to the Town where he was taken, and that the Town must bee at the charges of keeping him, untill the next Gaol-delivery. But howsoever the officer must look to him for fear of an escape: and in this case the best way for the officer, is, to get a Justice of Peace his Warrant to send the Prisoner to the Gaole; and hereupon the Gaoler doubtlesse will receive him. Twentiethly,

Arrest.

Numb. 19. *Duty of the Gaoler.* 4 *Ed.* 3. 10. 11 *Ed.* 4. 7. *Bro. Faux. Impr.* 24. 25. 27.

ethly, These officers, albeit they have power, in divers cases before and after shewed to imprison a man; yet have they not power in any case to deliver a man imprisoned again. And therefore if a *Constable* in case of an Affray commit an Affrayor to the Prison, the *Constable* may not afterward set him at liberty again: Or if he take a man upon a suspicion of Felony, and hee doth afterwards perceive some cause to make him believe the party apprehended is innocent in the matter; yet may not the *Constable* deliver him, but hee must continue in Prison untill hee may bee delivered by order of Law, either at the Sessions or otherwise, as the cause shall bee. And yet if an officer shall only put the Affrayors apart into the Stocks, or into some house or room (as it seems hee may) untill the heat be past; in this case the officer of his own head may set them at liberty again. 21. Every person that shall be sent to Gaole by a Justice of Peace, having means and ability of his own, must bear his own charges to bee levyed of his Goods and Chattels by the *Constable*, upon a Warrant to him, sent by a Justice of Peace; and not having goods, then to bee born by the Parish where the Fellon is apprehended, by an indifferent Assessment to be made by the *Constables* and *Church-wardens*, and two or more of the Inhabitants, by allowance of a Justice of Peace. 22. If any of these officers shall bee sued for any thing done by them in the execution of their offices; or if any suit be brought against their Deputies, or any others which in their aid or assistance, or by their com-

In what case an officer may set a Prisoner at liberty again Fitz. *office of J. P.* 130.

Allowance. Charge of a Prisoner.

Numb. 20.

What Pleas these officers shall have being sued.

21 *Jac.* 12.

7 *Jac.* 5.

commandement, shall doe any thing touchi
their offices, this Action must be laid in t
County where the thing was done; otherwi
the Defendant shall be found *Not guilty*, ho
soever the case be: And in all Actions broug
against them for the causes aforesaid, they n
not plead the speciall matter, but may plead
generall issue, and give the speciall matter
evidence. And if the verdict upon tryall pa
with the officer, or the Plaintiff be *Nonsuit*
suffer his Action to be discontinued the Defe
dant shall recover his double costs susteined
the said Suit. 23. These officers, & all the r
hereafter named, must take care that they t
nothing of any man for any work they doe in
execution of their office, more then is allow
them and is their due; for this offence in them
extortion, and punishable by Fine and Imp
sonment. 24. These officers, as well as othe
are to give an account to the Parishoners of t
monies they doe any way receive: And th
if they refuse to doe, they may no doubt b
compelled unto by the Justices of the Peace,
their quarter Sessions. 25. And as touchi
the disbursments of these officers about the e
ecution of their office, as for the carriage
Prisoners to Gaole, the conveying of Rogue
and the like, where by any speciall Act of P
liament they are to be allowed it, or any thi
towards it, and the means of recovering it is
down; there they shall have the same allo
ance; and they must pursue that means for t
recovery of it. And so in all cases where t
offender is sent to Gaol by a Justice, there
a means appointed by the Statute of 3 *Jac.*

Costs.

Extortion.

Account.

Numb. 21. *Expences and disbursments of officers.*

by the sale of the offendors Goods or a Rate by the Parish as before. But in other cases also, it seems very reasonable that they should bee allowed it again from the Parish: and if the Parish will not allow it, perhaps the Justices of Peace, upon the complaint of the officer, may devise some way, and doubtlesse they will doe what they can to relieve him. And therefore hee is to call his Neighbours, or as many as will come, and with them, or without them, if they refuse make an equall Rate sufficient to pay all his necessary charges and expences in the doing of his office; and it will bee good to get a Justice hand to it, if he can: and if any refuse to pay it, let him complain to the Justice of Peace, who will either binde him that refuseth to the quarter Sessions, or finde some other way to bring him to reason. But as touching their ordinary expences, for meat, drink, &c. in their travells; for this, it seems, there is no remedy, but that the officers themselves must bear it: Howbeit in these things the customs of the place is to bee continued.

SECT. 2.

Of the Office of the High *and* Petit-Constable, *about the Peace.*

THe authority and duty of all these officers, *high-Constable*, and *petit-Constable*, by the common Law, consisteth much about the Peace of the Common-wealth; and

herein in three things. First, In foreseeing that nothing bee done that tendeth either directly or by means, to the breach of the Peace. Secondly, in quieting or pacifying those that are occupied in the breach of the Peace. And thirdly, In punishing such as have already broken the Peace.

Breach of the Peace, what it is.

And here, lest any man should be deceived in the not understanding what is meant by the breach of the Peace, it must bee known, That by the breach of the Peace is to bee understood, not only that fighting which wee commonly call the breach of the Peace, but also that every Murther, Rape, Man-slaughter, and other Felony whatsoever, and every Affraying or putting in fear the People of the Common-wealth, whether it bee by unlawful wearing of Armour, or by assembling of people to doe any unlawfull act, are taken to be disturbances and breaches of the Peace.

Numb. 1. Against suspected persons, as Nightwalkers and the like.

Stat. of winchester. 13 *Ed.* 1. 4. 5 *Ed.* 5. 14. 13 *H.* 7. 10. *Fitz. office. J.* P. 200. 1 *H.* 7. 7. *Bro. Tres* 432

Bawdrie.

For the better preventing of the breach of the Peace, and that nothing bee done against it. First, Any one of these officers may, without Warrant from a Justice of Peace, *ex officio* and of his own authority, by nigh or day, arrest suspected persons, strangers, and others that walk in the night, and sleep in the day or haunt Bawdy-houses, or other suspicious places; or shall doe, or commit any outrage or misdemeanor: For if a *Constable* be informed of a lewd man & woman that are together & about to be incontinent & lewd, he may take with him so many of his neighbours as he will, & arrest the same man & woman, or any such disorderly persons, and bring them to a Justice of

Peace

Peace to bee bound to the good behaviour. 2. And the better to apprehend such persons, they are to see and take care that Watch and Ward be duely kept. And for this, these things are to bee known. 1. None but Inhabitants of the same Town are compellable to Watch and Ward. 2. It must be by men of discretion, able bodies, and sufficiently armed. 3. It must be by turn, or by the house, according to the custome of the place. 4. The *Constable*, *ex officio*, is to order it, and hee may enlarge or as there is occasion; but he cannot change the course of it at his pleasure, and make some Watch, and excuse others. 5. If any neglect or refuse to doe his duty, the *Constable* may present this default at the Assizes or Sessions, or complain of it to a Justice of Peace: And some hold the *Constable* may put him in the stocks for his contempt. 6. This Watch is from *Assention* to *Michaelmas*, and must bee from Sun to Sun; And the Warding then (in congruity of reason) must be the rest of the twenty and four houres day. 7. These Watch and Ward men, are to pose all men, to arrest and secure till morning Rogues and others suspicious, and them to bring to a Justice of Peace to bee examined: Or, if they will, they may deliver them to the *Constable*, who must take care of them. And if any resist them, and goe away, they may send *Hue and Cry* after them: And upon this any man may arrest them. 8. For default of this Watch and Ward the Township may be punished. So that all that the *Constable* hath to doe in this case is, to appoint it in an orderly way, who, when,

Numb. 2. *watch & ward* *Kitch.* 47. 48. 49.

Dalt. J. P. 60. *Winch.* 13 *Ed.* 1. 4. 5 *Ed.* 3. 14 *Hue and Cry.*

and how it ſhall be done, and to ſee it be done; and if it bee neglected to complain of it, and get it puniſhed. The Watch-men thus appointed, may have from the *Conſtable* theſe or the like inſtructions, (*viz.*)

Watchmans charge.

To keep the Peace amongſt themſelves; to continue their Watch diligently untill the Sun riſing, without noyſe and diſturbance of the Inhabitants: That they abide and frequent the common paſſages; but ſo as they have regard alſo to all other places: That they examine all ſuch perſons as they ſhall ſee ſtirring, or ſhall paſſe by them, what they be and whence they come? whither they goe and the reaſon of their late travell, or being abroad? and if cauſe of ſuſpicion be found in them, to ſtay them; if they obey not, but reſiſt, to conſtrain them by force, and to beat them, if it cannot be avoyed, for reſiſting the Peace of the Nation; if they bee too ſtrong or fly them, to levy *Hue and Cry* for the apprehending of them, and to ſet them in the Stocks untill the morning; and then to have them before ſome Juſtice of Peace, to be dealt withall according to Juſtice: To reſort to ſuch places where they behold any candle or fire-light, to know the cauſe; Or where they heare any noyſe of people eſpeccially in Taverns, Innes, and Ale-houſes; and finding any there, to admoniſh them to depart; and refuſing, to compell them, as aforeſaid. And if any unknown perſon, horſ-man or foot-man ſhall paſſe by them, or that ſhall drive any Cattel, Horſe, or the like; Or that ſhall carry any burthen on Horſ-back, Carr, or other

wiſe

wise, to stay them till the morning to justifie themselves, unlesse they can render good account, both of themselves, their company, and carriage: And if any Post come by them, to know what number they have, lest offenders also passe under that pretence. And the *Constables* are also to be aiding and assisting to these Watchmen upon all occasions.

Numb. 3. *Nightwalkers.*

3. In an action of Trespas of an assault and battery, the Defendant pleaded, that there were divers Felonies committed in those parts where hee dwelt; and he being watching in his house came into the high-street, where the Plaintiff was at eleven of the clock in the night; and the Defendant came unto him and laid his hands in peaceable manner upon him to see his face, and when hee perceived he was a true man he left him and departed. And this was allowed to be a good justification; for by the Statute of *Winchester* Watchmen may arrest Night-walkers, and may appose them from whence they come, and what they be? Also any other man may arrest Night-walkers, because it is for the good of the Common wealth.

Numb. 4. *Against persons that ride armed or make Insurrections.* 2 *Ed* 3. 3. 2 *R.* 2. 13. *Fitz. J. P.* 202.

4. If any person whatsoever, except *the Keepers of the Liberties*, Servants and Ministers of Justice in executing Precepts or their offices, or such as shall assist them, and except it bee in pursuit upon *Hue and Cry* made to keep the Peace (and that in places where Acts against the Peace doe happen) shall be so bold as to goe or ride armed by night or by day, as to carry any Dags or Pistols; Or to be apparelled with privy Coats or Doublets in any Fayres, Markets, or any other place to terrify

the people; And if any doe so; Or if any great Assembly, Riot, or Rumor be made in any outragious manner, in nature of an Insurrection; In the first of these cases the *high Constable* or *petty-Constable* may, and must take their Armor from them, and seize it to the use of *the Keepers of the Liberties*, and arest the parties, and carry them to a Justice of Peace, or (as it seems) to Gaol, there to abide during the pleasure of *the Keepers of the Liberties*. And in the last of these cases, the may and must take with them the power of the County, and suppresse them, and arest the offendors, and carry them to a Justice of Peace or commit them to Prison till they put in Sureties for their good behaviour.

Seize Armes.
Arrest.
Power of the County.
Ayd.

Numb. 5. Against him that doth threaten Murder. Fitz. Bar. 202. 2 Ed. 4. 36. per Briã, 3 H. 4 9.

5. And if one man doe threaten to kill another, and especially if he lye in wait so doe, and he who is so threatned doth complain to any one of these officers (being officers the place wherein the party threatning is abiding or doth dwell) and intreat him to arest the party to finde Sureties of the Peace: In this case the officer may and must arest him forthwith to finde Sureties; and therefore carry him before a Justice of Peace; or being there, to get Sureties, the officer may presently carry him to Gaole. But some say that this threatning must be in the hearing of the Constable, or else that hee cannot doe it. But if the thing be true it seems in both cases alike. And in such cases the *Constable*, if the party have no Sureties ready, may carry him to Gaole.

Numb. 6.

2. As these officers are to take care to pre-

vent the breach of the Peace before it bee; So are they to take care to suppresse and alay it when it is: And therefore in case of Affrayes, they are to labour carefully and speedily to appease them; wherein these things are to bee known. 1. If any of these officers shall see a man presently bent, and in fury going about to break the Peace, as by using of hot words, or the like, by which an Affray is like to grow, hee may, and must straitly charge and command the persons at debate, in the name of *the Keepers of the Liberties of England*, to keep the Peace, &c. and to avoid upon pain of imprisonment: And if there be nothing but words between the parties, it seems the *Constable* can doe no more but this, and may not lay hands on them, unlesse they goe further. But 2. If the parties at varience will not hereupon obey the officer, and depart, but goe on further to threaten to beat, hurt, or kill, and especially if either of them draw weapon, or give, or attempt to give any blow; then the officer may, and must keep them asunder by force; and for that purpose, if there bee need, may use his own weapon, and may call and require others to help him, who at their perils must doe so. 3. And if the Affrayors shall still proceed, and goe from words to blows, the officer and his assistants may by force apprehend the Affrayors, and cause them to render themselves, and put them in the Stocks, or in some other Prison or place untill the heat be past; or if it be in the night, untill the morning; or they may carry them unto the next Gaole, or to a Justice of Peace. 4. If the Affray be great and

To suppresse the breach thereof in case of Affrayors.
Fitz. J.P. 130.
Lamb. J. P. 173. *Dalt. J.P.* 28. 29. 22 *Ed.* 4. 35. 21 *H.* 7. 21. 13 *H.* 7. 10.
Ayd.
21 *H.* 7. 21.
Fitz. J.P. 130.

dangerous, the officers may make Proclamation that the Affrayors shall depart; and if they refuse or resist, they may commit them to prison in the Stocks, or other fit place, till the heat be over; or that they can carry them to a Justice to finde Sureties, especially if any man bee hurt in the Affray. 5. If the officer, or any of his Assistants in this service shall be hurt by the Affrayors, they shall have good remedy against the Affrayors. But if the Affrayors be hurt by the officers or their Assistants, in doing of their duty herein, the Affrayors shall have no remedy against them: For if the Affrayors shall resist, and refuse to obey the officer; In this case he may beat or wound them and justifie the doing thereof. And yet if another man (that is no officer) of his own head shall take upon him to part Affrayors (as he may) and in the parting of them hee hurt one of them; In this case he that is hurt shall have an action of Tresspas against him that did hurt him. 6. If hee that doth make the affray, when he doth see the officer comming to arrest him shall flie into a house, the officer may in the fresh pursuit of him breake open the doore upon him to take him, and justifie it; and if hee flie out of the officers liberty into another *Hundred* or *Tything*, or into a Franchise in the same Countie, when hee seeth the officer comming to arrest him, the officer may upon a fresh pursuit follow him, and take him there; and so may hee also where hee doth flie out of one Countie into another: But in this last case, when the officer doth apprehend the party in another County, hee can doe no more

Imprisonment.

21 H 7. 21. *Lamb. J. P.* 141. 142.

Officer may beat, &c.

Breaking open of a house, lawfull.

Fitz. J P. 130. *Dalt. J. P.* 28. 29. *Lamb. J. P.* 143. 144.

Arrest out of his Precinct.

will

with him then a private man may doe (*viz.*) carry him before some Justice of the Peace of that Countie wherein hee is taken, to cause him there to finde sureties for the Peace. *Fitz. J.P.* 130. 7. If two men bee fighting together, in eyther of their owne or another mans house (the dores being shut) in this case the officer, if hee cannot otherwise get in, may break open the doores to get in to keepe the Peace, albeit neither of the parties bee hurt. 8. In these cases before, the officer may and ought to carry them before some Justice of the Peace, to finde Sureties for the Peace, because they have broken the Peace already, and are meete to be bound that they shall not breake it againe. 9. It is said that the *Constable* carrying the affrayors to Goale, may himselfe take bond of them, to the use of *The Keepers of the Liberty*, for the keeping of the Peace (the which bond hee is to certifie into the Exchequer or Chancery, from whence the Processe is to bee made if the Peace bee broken) and thereupon deliver them; and that if they will not finde Sureties, the *Constanble* may imprison them untill they doe finde Sureties: But this is not used any where; It is therefore safe to carry them to a Justice of Peace. 10. When the officer doth carry the affrayor to prison, or to a Justice of Peace, so that hee is bound over to appeare at the Quarter-Sessions, or Goale-Delivery to answere it; in these cases the officer must see then that hee appeare at the next Quarter-Sessions of the Peace, or the next Goale-Delivery, there to object against the affrayor, as there shall bee cause. *9 Ed. 4. 26.* *10 Ed. 4. 17.*

11. If

21 H. 7. 21. 5 H. 7. 7. 6 Lamb. J. P. 14. Fitz. J. P. 14.

11. If one make an assault and affray upon the Officer himself, he may take the party & carry him to a Justice of Peace or to prison, as he may in case of an affray done upon another man. 11. If an affray bee made in the presence of the *Constable*, and hee doe not his endeavor to pacifie it, hee may bee fined for it at the Sessions, according to the discretion of the Justices: But if the affray bee in another place, and notice bee given thereof to the *Constable*, and hee doe not his best to pacifie it, it is said hee shall not bee fined for this: but let this bee doubted, and *Constables* advised not to trust to it, but to doe their utmost to suppresse all affrayes and keepe the publique Peace every where within their precincts. And in this case every private man, being present, and during the time of the affray may and must doe his best to quench and allay it: But he may not Hurt or Imprison the Affrayors unles some man be hurt in the Affray.

Numb. 7. *After the peace is broken.* Bro. Faux. Imp. 6 Fitz. J. P. 131. Dalt. J. P. 29 38 Ed. 3. 6. 12. Ass. 56. 10 H. 7. 20. Poult de pace 13.

3. For the duty of these officers after the Peace is broken. If the Peace bee but newly and freshly broken by an Affray, & the officer have notice of it, it hath beene said hee may arrest the parties, and carry them before a Justice of Peace, to finde suretie for the Peace, because they have broken the same already, and are meete to bee bound that they shall not thenceforth breake it againe: But it seemes this is not Law at this day, for it hath been resolved That a *Constable ex Officio* and without a Warrant from a Justice of Peace, may not imprison any man for an assault or affray except hee bee present at the affray himself.

In Skarrets case, Hill. 37. Eliz. C. B. But in all cases where an affray is past, this officer may by Warrant from a Justice of Peace, take and imprison the affrayors, and in case where one is hurt in the affray, and thereby in peril of death, hee may *Ex officio* and without any such Warrant arrest and imprison the Affrayors: For in this case when one hath received a dangerous hurt in the Affray, the officer, after the Affray is past may, and must arrest and imprison him that did the hurt till he give Surety, to appear at the next Gaol-delivery; or otherwise he may, with lesse labour then to carry him to Gaole, carry him to a Justice of Peace, who ought to take such order as the party may give such Surety: For the Fact may fall out to be Felony, if he that is hurt happen to dye within a yeer and a day next after the hurt done. And if the officer doe not soe, or suffer such a person to escape, he may be deeply fined for it. And in this case also it is said, that the officer may, after he hath arrested him that gave the wound, keep him a while in some other place out of the common Prison untill it may be known whether the party will live or not. *Arrest.*

If Felons or Murderers be in the Village, and these officers of the Village have notice of them; it is their duty to gather men together, and to apprehend them: And if any Felon be taken, it is the *Constables* office to see him conveyed safely to Gaole: And any other man, as well as an officer may arrest and keep in hold such a man as he doth know to have committed any Felony. And as touching persons suspect of Felony, it is said, That if any man doth *Numb. 8. Against persons committing felony, or suspect of felony. Fitz. J. P. 201. 1 R. 3. 3. Lamb. office of Const. 17.*

doth ſuſpect any other man of any Felony that he hath committed, and doe declare the ſame to any one of theſe officers, that thereupon he may, if the party ſuſpect be within the limits of his office, areſt and bring him (and with him he ſhall doe well to bring the other party that did ſuſpect him) to the Juſtice of Peace to be examined. But as touching the arreſting of another man upon the ſuſpicion of a third perſon, it ſeems the Law is otherwiſe: For it is the opinion of the whole Court, in the 17 *Ed.* 4. 5. and in 5 *H.* 7. 4. That one cannot impriſon another man upon the ſuſpicion of a third man for Felony, unleſſe he himſelf have ſome cauſe of ſuſpicion alſo. And that one man, albeit he be an officer, cannot juſtifie the impriſonment of another man ſuſpected by a third man, and at his commandement that doth ſuſpect: And of this opinion was Mr. Juſtice *Bridgman*, and the whole Court of the Marches of *Wales*. And therefore it was held there, That if I ſuſpect a man for Felony, and give notice hereof to the *Conſtable*, that he cannot areſt him upon my ſuſpicion. And yet when I have areſted him upon mine own ſuſpicion, and delivered him to the *Conſtable*, That in this caſe the *Conſtable* muſt look to him at his peril. And if the *Conſtable* from this doe receive a ſuſpicion of him (as he may) upon a fame or any ſlight report, I think it reaſonable and juſtifiable in him to areſt him. But as touching this matter, and for the cleering of this point, theſe things are to be known.

11 *Ed.* 4 4. *Bro. Faux. Impr.* 24

9 *Ed.* 4. 26.
17 *Ed.* 4. 5.
20 *Ed.* 4. 6. *Bro. Faux. Imp.* 27.

1. That any one of theſe officers, or any other private perſon whatſoever, having cauſe to

to ſuſpect another of a Felony committed by Murder, or Theft, may himſelf arreſt and apprehend ſuch perſon ſuſpect; but herein hee (whoſoever hee be) muſt take heed to three things. 1. That there be a Felony committed, or at leaſt confidently reported to be committed; for otherwiſe there can be no good cauſe to ſuſpect any man. 2. That there bee ſome cauſe to ſuſpect the party arreſted more then another. 3. That after the arreſt, the party that doth arreſt him, doth carry him to a Juſtice of Peace or to the common Gaole, to the end that the party accuſed may be Indicted or acquitted at the next Seſſions, &c. Or if it be a private man that doth make the arreſt, That hee doth deliver the party arreſted to the *Conſtable, &c.* of the place.

2. Theſe, or any, or either of theſe, are held to be ſufficient cauſes of ſuſpicion. 1. That the perſon ſuſpect is Indicted for the ſame Felony. 2. If the Felony be a Murder; that he was preſent at the time of the Murder committed, with a Sword drawn in his hand. 3. That the perſon ſuſpect, is a perſon of evill name; or is a Vagarant in the Country where the Felony was done. 4 If the Felony be a Robbery, and the party ſuſpect is found with ſome part of the goods in his hands. 5. If one apprehended for the ſame Felony, hath taken his oath upon a Book, that the party ſuſpect is one of the Felons. 6. That it is the common fame and report of the Country, that the party ſuſpect did the fact. 7. If the party ſuſpect doth fly upon the Felony committed. 8. If there be a *Hue and Cry* out againſt the Felon, and

Cauſes of ſuſpition of a man for felony.
29 Ed. 3. 39. 9.
4 H. 7. 4. 7 H. 4. 35. 27 H 8 21.
14 H. 8. 16.
2 H. 7. 15.
11 Ed. 3. 44.
21 H. 7. 27.
Fitz. J. P. 201. *Numb.* 9.

and the person suspect and apprehended is such a person as is described by the *Hue and Cry*; or if the Felony be for stealing of Cattel, and the party suspect is taken driving such Cattel as are set forth by the *Hue and Cry* to be stoln: And yet hereby an honest man may be apprehended; for a *Hue and Cry* may be raised where no Felony is done. But in this case he that raysed it may be punished, and he that doth arrest the party is to be excused; or there may be no other cause to suspect this man but the possession of the goods, and he might come by them lawfully; howsoever this is cause enough to give him that doth arrest ground of suspition. 2. If *J. S.* would have arrested one that had Robbed him, and the party suspect forbid him, and saith hee shall not arrest him; this is sufficient cause to make him to be suspected for an accessary. And therefore in all these and such like cases a man may justifie the arresting of the party suspected.

Tryall. 3. What shall be said a sufficient cause of suspicion, what not, & shall be tryed by the Judges.

4 It is the duty of these officers, to doe their utmost indeavour, with all diligence, to finde out, and apprehend Felons: And if there shall be herein any neglect found in them (especially if it be for favour or reward) they may be grievously punished. And for this cause they

Search. may, and they must after a Felony is done, either by, or without the Warrant of some Justice of Peace, make diligent search for him

Numb. 10. that did it, in all such places within their Liberty as they shall understand to be likely to finde him in; for it is the chief part of their

office

office to repreſſe Felonie, and albeit it bee a mans houſe hee doth dwell in, which they do ſuſpect the Felon to bee in, yet they may enter in there to ſearch; and if the owner of the houſe, upon requeſt, will not open his dores, it ſeemes the officer may breake open the dores upon him to come in to ſearch; And ſo alſo it ſeemes the officer may ſearch for goods ſtoln, as hee may for the Felon himſelfe that doth ſteale them; and if the officer, upon ſearch, cannot finde the Felon, it is his duty to raiſe the Hue and Cry and ſend him, directing it to thoſe officers, whoſe duty it is carefully to purſue them as ſoone as they receive them; and it is the duty of all other men, being called upon by officers, and at the Cry of the Country to bee ready to purſue and arreſt Felons, and upon the Hue and Cry any man may arreſt him that is taken with the things (bee hee never ſo honeſt) and hee may deliver him and the goods to the Conſtable of the Town to bee kept ſafely.

Breaking of a houſe open, lawfull.

Hue and Cry.

5. If they bee about to arreſt any man ſuſpected of Felony, they may require the ayd and helpe of others, both to arreſt and carry to priſon the party ſuſpected; and the parties required muſt in this caſe helpe them at their perill.

Ayd.

6. If a private man arreſt another man (as hee may) upon his owne ſuſpicion, and then deliver him to the Conſtable of the place, hee muſt then looke to him that hee ſuffer him not to eſcape, at his perill, but that hee bring him, and the party with him, that did arreſt him, to a Juſtice of Peace, or that hee bring the

10 Ed. 4. 17. Fitz. J. P. 21.

Carrying of a Priſoner to Gaol.

the partie arrested to the Goale, for in this case the Constable may not refuse to take charge of a Felon so brought unto him by another; and if there bee no Constable of the place where the party is apprehended, and the party that doth arrest doth bring the prisoner to the Constable of the next parish, it seemeth this Constable in this case is bound to take charge of him at his peril.

Seizure of Goods.
Fitz. J. P. 201. Numb. 11.

7. If a man flie for Felony, the Constable of the Village where his goods are must Seize them, and keepe them safe and not part with any of them, but so much only as is needeth for the sustentation of the Prisoner, and if the goods bee impaired the Constable must answer for them, and therefore it will bee his wisdom to take them by Inventory, and in the presence of honest neighbours.

8. An Action of Trespasse was brought by a man for an Assault and Battery of his servant whereby hee did lose his service three dayes, and the Defendant pleaded that *A.* was robbed at midnight of goods to the value of twenty pounds, whereupon the said *A* came to the Constable and prayed him to search for all suspicious Persons, and to apprehend and arrest them, and accordingly hee did search and found the same servant walking suspiciously in the streete in the night, and therefore he would have arrested him, but the said servant fled and would not yeeld to the arrest; and the Defendant, by the Constables commandment, pursued and tooke him. This was adjudged a good Plea in Barre; for when a Felony is committed, the Constable, or any

Search.

Arrest.

the

thers upon ſuſpicion of perſons that are ſuſpicious, may arreſt them; and if they will not yeeld to the arreſt, but aſſault him or them that doth arreſt him, they may juſtifie the beating of him, for that hee doth reſiſt the Peace and Juſtice of the Common wealth, when hee doth forcibly ſtrive to fly, and not to bee juſtifyed by it. If a *Hue and Cry* be levyed and purſued, that a Horſe of ſuch a colour or mark; ſo many Beaſts of ſuch a ſort, or age; or ſo many Sheep of ſuch a brand bee ſtoln; and one is taken leading or driving of the ſaid Horſes, Beaſts, or Sheep: In this caſe it is lawfull for theſe officers, or any other man, to ſtay and apprehend him; and if hee that doth apprehend him, be not an officer, he may commit him to the *Conſtable* of the place where hee is apprehended, and by him to be put in the Stocks, or ſafe kept untill he be delivered by courſe of Law, though the party apprehended be not a man of evell name or fame, but a man of good credit; for ſeeing the Law hath by the *Hue and Cry* accuſed him, he muſt be by a courſe of Law again acquitted and diſcharged: And in this caſe, hee that is ſo taken ſhall not have an Action of Treſpas, Falſe-impriſonment, or other remedy againſt him that did apprehend him, or againſt the *Conſtable* to whom he was committed, albeit he be afterwards acquit of the Felony. In an Action of Falſe-impriſonment, the Defendant pleaded, That there was a Felony done, and he ſuſpected the Plaintiff to have done it; and therefore he arreſted him: In this caſe, this was held no good Plea; for he ſhould have ſhew-

Beating juſtifiable.

Hue and Cry.
29 Ed. 3. 9.
Pulton De Pace
12. 5 H. 7. 4.
Numb. 121.

Arreſt.

27 H. 8. 13.

ed some ground and cause of his suspicion. And in an Action of False-imprisonment, it is no Plea for the Defendant to plead, That it was told him, That the Plaintiff had brought the Cattel to the Town and put them in a blinde corner, and that there was great cause of suspition that the Plaintiff had stoln them, whereupon he did arrest him: for suspition only, without a Felony committed, is no cause to arrest another. And in an Action of False-imprisonment, the Defendant pleaded, That *J. S.* was poysoned, and that the common voyce and fame of the Country was, That the Plaintiff had poysoned him; whereupon the Defendant apprehended the Plaintiff, and committed him to prison, as was lawfull for him to doe. And this was adjudged a good Plea in Barr of the said Action; for common voyce and fame of the Country is cause of suspicion of Felony when a Felony is committed: but when there is no Felony done, it seems this is no cause sufficient to warrant the arresting of such a person. And yet, as before it appeareth, the accusation of a man (where no Felony in truth is done) by *Hue and Cry*, is cause sufficient to warrant the arresting of such a person as is described by the *Hue and Cry*. In an Action of False-imprisonment, the Defendant did plead, That before the imprisonment *A. B.* was slain at *C.* and that the Plaintiff was in the company of those who killed him, at the time of the Felony committed, and the common voyce and fame of the Country at *C.* was, that the Plaintiff was party to the Felony; whereupon the Defendant finding the Plaintiff at *C.* arrested him

5 *H.*7.4. 2 *H.* 7.15. 11 *Ed.*4 4

7 *H.*4.10. *Dyer* 276.

him for ſuſpicion of Felony, and committed him to the Sheriff, &c. and this was allowed a good and ſufficient Plea.

9. If a man doe aſſault another in, or neer the high-way, to robb him, and hee that doth make this aſſault, is taken and brought to the *Conſtable* of the place; In this caſe the *Conſtable* muſt take him to his ward, and carry him before a Juſtice of Peace to give Sureties for his good behaviour. In an Action of Treſpas of Aſſault and Battery and falſe impriſonment the Defendant pleaded, That the Plaintiff lay in wait in a high-way, to robb ſuch perſons as travelled that way, and aſſaied to robb one *L.* and drew his Sword, and commanded the ſame *L.* to deliver his purſe, whereupon *L.* fled, and levyed *Hue and Cry*, and this Defendant being travelling that way, purſued the Plaintiff, and took him, and committed him to the *Conſtable* to be put in the Stocks, who did it accordingly: and this was adjudged a good juſtification; for every man may arreſt him that doth a Felony, or him who maketh it apparent that he doth intend and goe about to commit a Felony, for that he doth thereby manifeſt himſelf to be a principall breaker of Law and Peace of the Nation.

Impriſoning him that doth attempt to rob. Fitz. Bar. 202. 9 Ed. 4. 26. Numb. 13.

Carrying one to a Juſtice or to Gaole.

Arreſt.

10. The *Conſtable* is to levy *Hue and Cry* when there is cauſe, and to ſend it Eaſt, Weſt, North, and South; and it is beſt to expreſſe in the *Hue and Cry*, the nature of the thing ſtolen, colour, and markes, and to deſcribe the number of Felons, their Horſe, Apparell, &c. And this Officer receiving a *Hue and Cry* after a Felon, muſt with all ſpeede,

Hue and Cry.

make diligent pursuite, with Horse and Foot, after the offenders from Towne to Towne the way it is sent, and make diligent search in his owne Towne. And the *Constable* and Hundred both may bee punished for neglect herein. And all other men must hereupon bee industrious to take them. Hytherto for the most part wee have shewed you nothing but what is of the primitive and imediate authority and duty of these Officers, and what they may and must doe, *Ex Officio*, without any commandement or authority from others. But for as much as a grat part of their duty (especially concerning the Peace) resteth in making of due execution of the Precepts of higher Officers, and especially of the Justices of Peace, who be (as it were) immediately set over them: Wee are therefore in the next place to shew you some part of that which they are to doe in that behalf.

In executing of the Precepts of others.
Lamb. Const. off.
Numb. 14.

Albeit these officers be subject to the commandements of the Justices of Gaole-delivery, of *Oyer* and *Terminer*, and of some higher Justices; yea, and to the Precepts of Sheriffs, Coroners, Stewards of Leets, and of other officers in some certain cases; yet because they are called upon most commonly by the Justices of Peace, so as at this day their office is for the most part conversant about the execution of their Warrants: For if the Justice of Peace doth understand by complaint, That any man hath stoln or slain, or any Servant or Laborer without Lycense hath departed out of his Masters service; or any that liveth idlely or suspectedly, knowing once in what Parish he is, he

he doth write to any one of these officers, to command him to bring this person before him, and then he doth examine him, and if he finde cause, he doth commit him to some *Constable* or officer to convey him to the Gaole, there to abide till the Justices meet at their Quarter-Sessions, or at their Gaole-delivery, that the Law may either condemne or acquit him: And to these Precepts these officers ought especially to shew themselves obedient; & then also especially when their Aide is called for, to suppresse Ryots, unlawfull Assemblies, and such like notorious breaches of the Peace. And 1. *Felony.*

Howsoever it be so, that if a man have Goods stoln, and he doth suspect that such a man hath stoln them, and he complaineth thereof to the *Constable*, so that now the *Constable* hath cause to suspect him also; That the *Constable* in this case, of his own authority, without Warrant from a Justice of Peace, may search for the Goods and the Felon; and if he finde the Goods, seize them; and if he finde the Felon, apprehend him: yet for the most part, the *Constable* not knowing his authority, or the danger, is so fearfull and remiss herein, that he doth nothing until he have a Warrant of a Justice of Peace to provoke and enable him so to doe. And if such a Warrant be sent to him from a Justice of Peace, to search after Goods stoln and the party that is suspected to steal them; the *Constable* may, and must execute this Warrant accordingly. 2. If a Warrant come to any of these officers, from a Justice of Peace, to bring such a man before him, to give sureties for the peace or good-behaviour:

Search. *Dalt. J. P. 289.* *Numb. 15.*

Search.

Deputy. In this case the officer cannot make a Depury,
Dalt. J.P.290. or command another to doe it, but he may re-
291. quire the aid of others to help himself in
Dalt. J.P.291. the doing of it. 3. If a Warrant be directed
Coo. 5. 59. to this officer, from the Justice of Peace, to
Broo. Faux. bring any person before some Justice of the
Impr. 2. Peace of the County, for the Peace or good
behaviour, and the cause (as it ought to bee)
Warrant. is set down in the Warrant: In this case the
duty of the officer is first to finde out the party,
and having found him, to require him in the
name of *the Keepers of the Libertie of Eng-*
land to goe with him to a Justice of Peace to
put in security according to the Warrant. The
which if he refuse or delay to doe, or if hee
offer to runn away from him or resist him, then
Arrest. must the officer forthwith arrest him and con-
vey him to the prison (if the Warrant be so,
Stocks. as usually it is) or put him in some Stocks un-
till he can conveniently have strength to
goe with him, without carrying him to
a Justice of Peace; and then must the party
remaine in prison untill hee shall voluntra-
rily offer and finde Surties, according to the
warrant. And if the party upon the first de-
mand thereof made by the officer, doe yeeld
to goe and finde Sureties, then may not the of-
ficer absolutely arrest him: And if hee
bee obstinate, and will not yeeld to the of-
ficer, but resist him, the officer may justifie the
Beating. beating or hurting of him. And of this Warrants
execution & of his proceedings upon it, the offi-
cer must give an account to the Justices of the
Peace at their next Sessions of the Peace. And
if the party doth yeeld to goe to a Justice of

Peace

Peace to give Surety, according to the Warrant, but will not goe to the same Justice that made the Warrant, but to some other Justice he doth name; herein the officer may, if he please, suffer him to have his will, howbeit in this case the Law doth give the election to the officer, and he may bring the party before what Justice of Peace he please: And yet if the Warrant be to bring the party before the same Justice of Peace that made it; in this case the officer must bring him before the same Justice, and cannot bring him before any other. And if the party being before the Justice of Peace, refuse to give Surety according to the Warrant, and the Warrant have words of authority to the officer, to carry him to the Gaol (as most commonly every Warrant hath) then may the officer carry him to prison without any new Warrant from the same or any other Justice of Peace so to doe. And in these cases also the officer is to consider whether the Warrant doe come directly from the meer authority of the Justice of Peace, or else be grounded on a writ of *Supplicavit*, sent down from the higher authority (which difference ought to appear in all well made Warrants:) For if the Warrant be grounded on such a Writ, then may the officer compell the party to goe to the very same Justice or Justices of Peace that made the same Warrant, or else he may carry him to Gaol. Neither is it requisite in this case, that the officer should dance up and down after the partie untill he can finde out Sureties, but he may detain the prisoner untill he can bring Sureties to the officer. And the officer that

Carrying to Gaol.

Warrant.

Dalt. J. P. 137.

5 Ed. 4. 6.

doth arreſt a man upon ſuch a Warrant of the Peace or Good-behaviour, muſt ſee that hee doe afterwards bring the party to the Juſtice of Peace to give Sureties, or to the Gaol; for if he doe not ſo, he may be puniſhed for it by fine at the Seſſions; and (as it ſeems alſo) by Action of Falſe impriſonment, at the ſuit of the party arreſted. And if the party againſt whom whom ſuch a Warrant is granted, hearing thereof, doth (as oft times he doth) offer himſelf with Sureties for the cauſe, to ſome other Juſtice of Peace, and he doth binde them, or he findeth Sureties in ſome of the Courts at *Weſtminſter*, and ſo hath a *Superſedeas* out of the *Chancery* uper-Bench, or from any Juſtice of the uper-Bench, or from any Juſtice of Peace of that County, directed to all the officers of the County to diſcharge the ſame Surety of the Peace or Good-behaviour, and hee hath the ſame ready to ſhew to ſuch officer as ſhall come to him with the Warrant, as aforeſaid, and doth ſhew and deliver the ſame to him when he is about to execute the ſame Warrant; In this caſe the officer is not to meddle with him; for if the officer ſhall require the party to obey the arreſt hee may refuſe it and if the officer ſhall arreſt the party hee may have an Action of falſe impriſonment againſt the officer for it. And by this *Superſeas* the officer is diſcharged of any duty touching the warrant of the Juſtice of Peace directed to him: But let the officer ſee that hee keepe his *Superſedeas* ſafe for his diſcharge if hee bee queſtioned for not ſerving the warrant. And it is not amiſſe for him

Numb. 16.

Superſedeas.

Arreſt.

him to give notice of the ſame to the Juſtice of Peace from whom hee received the commandement of Service, that thereby hee may ſee the cauſe why the ſame was not done. But in theſe caſes ſome ſay that another Juſtice of Peace cannot diſcharge the warrant of the firſt Juſtice of Peace, untill the party bee bound indeede. Howbeit if ſuch a *Superſedeas* come to the officer that hath the warrant to arreſt; it ſeemes that by this hee is diſcharged, and that hee is to obey the *Superſedeas*, eſpecially if hee know not whether the party have given bond or not.

Hytherto wee have ſpoken of the office of theſe officers, ſet forth by the ancient common Laws of the Nation. And now we come to ſpeak of the ſame as it is enlarged by divers Statutes, wherein alſo we ſhall find the ſame difference we had before: That by the ſame Statutes they are required and enabled to doe ſomething as of their own authority, and without any commandement or authority from others; and other things they are required & enabled to doe when they have commandement from the Juſtices of Peace or ſome other ſuperior power ſo to doe.

SECT. 3.

Of the Office of the High-Conſtable *and* Perit-Conſtable *againſt Prophaners of the* Lords-Day.

FOR the better underſtanding of their Duty herein, theſe things are to bee knowne. 1. This day is by every one to bee ſanctified

sanctified and kept holy; and men must bee carefull herein to exercise themselves in the duties of Pietie and true Religion, publiquely and privately; and every one on this day (not having a reasonable excuse) must diligently resort to some publique place where the service of God is exercised, or must bee present at some other place, in the practise of some religious Duty, eyther Prayer, Preaching, Reading or Expounding the Scriptures, or conferring upon the same. 2. None may on this day meete out of their owne Parish, at *Sports.* any sports whatsoever, nor may they meete within their owne Parish for Boare-bayting, Bull-bayting, Enterludes, or other unlawfull exercises, under pain to forfeit three shillings foure pence for every offence, to bee levied by distresse and sale of goods, and for lack of distresse, to sit three houres in the Stocks. Nor may any one on this day, keepe or be present at any Wrestlings, Shootings, Bowlings, Ringing of Bells for pleasure, Masque, Wake, Church-Ale, Dancing, Games, Sport or pastime whatsoever, under paine to forfeit five shillings, if hee bee above fourteen yeers old, and twelve pence by him that hath the government of him; if hee bee under fourteen yeeres old, to bee levied by distresse and sale of goods; and if no distresse bee to bee had, *Carryers.* to sit in the Stocks three houres. 3. No Carryer may goe with his Horses, no Waggoner, Carter or Wain-man, may goe with his Cart, Waggon or Waine, or Drover with his Cattle on this day, under pain to forfeit twenty shillings for every offence, to bee levied by

distresse

diſtreſſe and ſale of his goods, if hee bee queſtioned within ſix weeks after the offence done. But there ſhall bee but one twenty ſhillings forfeited for one journey, although hee paſſe through twenty Pariſhes, and this twenty ſhillings that pariſh ſhall have where the diſtreſſe is firſt taken. 4. No Butcher may kill or ſell any victuals on this day, under paine to forfeit ſix ſhillings eight pence, if it bee queſtioned within ſix weekes after the offence done, to be levyed by diſtreſſe and ſale of Goods. 5. None may Cry, ſhew forth, or put to ſale any Wares, Merchandizes, Fruit, Herbs, Goods, or Cattle on this day, unleſſe it be in an In, or Victualing-houſe, and for ſuch as cannot otherwiſe bee provided for; and unleſſe it be the crying and ſelling of Milk before nine in the morning, and after four in the afternoon, from the tenth of *September* to the tenth of *March*; and for the reſt of the yeer, before eight in the morning, and after five in the afternoon, under pain to forfeit the things ſo cryed or offered to ſale 6. None may on this day, without good cauſe by allowance of the Juſtice of Peace, travell, under pain to forfeit ten ſhillings; nor carry any burthen, or doe any wordly labour, under pain to forfeit five ſhillings, both theſe forfeitures to bee levyed by diſtreſſe and ſale of goods; and if no diſtreſſe to be had, to ſit in the Stocks three hours. 7. None may on this day, or the dayes of Humiliation, or Thankſ-giving, uſe Dancing, prophanely Singing, Drinking or Tipling in any Tavern, Inne, Ale-houſe, or Tobacco-houſe, nor be there: Or grinde any

Butcher.

Tradeſmen.

Travellors.

Drinking, Tipling.

Corn

Corne at a Mill, but upon cauſe to be allowed by one Juſtice of Peace, under pain to forfeit ten ſhillings a peece, both he that is in the Inn and hee that keeps the Inne, the Millar and he that owes the Corn, to be levyed by diſtreſſe or ſale of goods; and for lack of diſtreſſe, to be ſet ſix hours in the Cage or Stocks. 8. No

Carryer. Traveller, Waggoner, Butcher, Higler, Drover, or their Servants, ſhall come into their Inne or Lodging on *Saturday* night after twelve a clock; nor goe from thence *Monday* morning before one a clock, without neceſſary cauſe to be allowed by one Juſtice of the Peace, under pain of the forfeiture of ten ſhillings by the Inn-keeper, and ten ſhillings by the Traveller, and to be levyed by diſtreſſe and ſale of goods; and for lack of diſtreſſe to be

Serving of Proceß. ſet ſix hours in the Stocks or Cage. 9. None may execute any Writ, Order, or Warrant on this day, dayes of Humiliation or Thanks-giving, but in caſe of Treaſon, Felony, breach of the Peace, and profanation of the day, under pain to forfeit five pounds, to be levyed by diſtreſſe and ſale of goods, and for want of diſtreſſe, to ſit ſix hours in the Cage or Stocks, and the ſerving of the Proceſſe is void.

Coaches, Boats. 10. None (but in caſe allowed by one Juſtice or for Gods Service) may travell with a Boat, Wherry, Lyter, Barge, Horſe, Coach, or Sledan on this day, under pain of forfeiture of ten ſhillings by him that is carryed, and five ſhillings by him that doth carry, to be levyed by diſtreſſe and ſale of goods, and for lack of diſtreſſe to ſit ſix hours in the Stocks or Cage.

11. All Conſtables, Church-wardens, Over-

ſeers of the poor, Governors of Companies of Water-men, and other Officers muſt upon ſight and knowledge, or information of any of theſe offences before named committed, ſeize and ſecure the Goods and Wares cryed, ſhewed forth, or put to ſale, and make diligent ſearch for the diſcovering, finding out, and puniſhing of the offendors, under pain of twenty ſhillings, to be levyed by diſtreſſe and ſale of goods, and this puniſhment they muſt (as it ſeems) endeavour, by carrying the offender to a Juſtice of Peace. *Officers.* *Seize Goods.* *Search.*

And this, it ſeems, is hereby lawfull to bee done by one of theſe officers *ex officio*, and without a Warrant, hearing or ſeeing any one prophane this day, by any of the particular offences aforeſaid. Alſo if a Warrant be ſent to the Conſtables, Church-wardens, and Overſeers of the poor of the Pariſh or place to levy the forfeitures, or to inflict the puniſhment aforeſaid, they muſt purſue their Warrant, and doe it under pain of twenty ſhillings forfeiture. *Stat.* 1 *Car.* 1. 3 *Car.* 1.. *Ordin.* 6. *April* 1644. *Act.* 19. *April* 1650.

SECT. 4.

Of the Office of High-Conſtables *and* Petit-Conſtables, *againſt Swearers.*

AS touching this theſe things are to bee premiſed. 1. The former Act is repealed. 2. Every one that ſweareth is to forfeit

feit for the first offence as followeth. The Lord and all above him in degree thirty Shillings: The Barronet or Knight twenty Shillings: The Esquire ten Shillings: The Gentleman six shillings eight pence: Any other man or woman, single or married three shillings four pence: And for every offence afterward, twice as much. And for the tenth offence, being proved by verdict or confession he is to be bound with Sureties to the good behaviour for three yeers; And for lack of payment or giving security to pay it and distress to levy it; if he bee above twelve yeers old hee is to sit by the heels in the Stocks three hours for the first offence, and six hours for every offence after: if under twelve yeers, he is to whipped by the Constable, or Master, or Father, in his presence. 3. Swearing after the Surety for the Good-behaviour given, is a breach of the Bond. 4. Any Officer Constable, Church-warden, or Over-seer of the Poor may, *ex officio*, that heareth it, bring the offendor to a Justice to be punished. And if any one Justice of Peace send his warrant to any high-Constable or petit Constable, to doe execution upon this Statute, they are to see it done accordingly. 5. Hee that is sued for doing any thing on this Law, may plead the generall issue; and if it goe with him shall recover treble costs. *Act* 22. *Junij* 1650.

Pleading.

Costs.

SECT.

SECT. 5.

Of the Office of the High-Conſtable *and* Petit-Conſtable *againſt Adulters and Incentinent Perſons.*

FOR the knowledge hereof take theſe things. 1. If any ſhall marry or have the carnall knowledge of the body of his or her Grand-father or Grand-mother, Father or Mother, Brother or Siſter, Sonne or Daughter, or Grand-childe, Father or Mothers Brother or Siſter, Fathers Wife, Mothers Husband, Sonnes wife, Daughters, husband, Wives Mother, or Daughter, husbands Father or Sonne, and confeſſe it within twelve Moneths after, or it bee found by verdict before Juſtices of Aſſize and the Peace, it is Felony wherein is no Clergy. 2. If any marryed Woman whoſe Husband have not beene three Yeeres abſent beyond Sea, or by common report reputed to bee dead, or three Yeeres together from her and ſhe doth not know him to be alive; ſhall be carnally knowne by any but her Husband except ſhee bee raviſhed, it is Felony, and both Man and Woman ſhall die without Clergy. 3. If any ſhall carnally know any unmarryed Maide, or Widdowe, they both, if they confeſſe it, or it bee found by verdict, ſhall bee committed to the common-Goale without bayle for three Monethes, and untill they reſpectively give ſecurity before

before some Justice to bee of good Behavio for one Year, the second offence is Felon without Clergy. 4. If any man or Woman bee committed for a common Bawd o keeping a common Bawdy-house, for hi first offence hee is to bee openly whipped set in the Pillory and marked with a hot Iro in the forehead with this letter *B* and the sent to prison or *Bridewell* for three Years without bayle, and untill they give surety for their good behaviour for life. The second offence is Felony without Clergy. *A* 10. *May* 1650 and 9 *Aug.* 1648. 5. N party to bee beleeved against the other, no Husband against the Wife, nor Wife again Husband. 6. If any of these officers bee in formed that a Man and Woman bee committing of Adultery or Fornication toge ther, hee may and ought to take compan with him, and if hee finde it so, hee may a rest them, and carry them both to prison till they give surety for their good Behaviour 7. If any warrant come from a Justice o Peace to any one of these *Constables* to a prehend any such lewd Person, that he may p in suretyes for his good Behaviour, hee mu execute it duely according to the conten thereof.

1 *H.* 7.7.
13 *H.* 7.10.

SECT

SECT 6.

Of the Office of the High-Constable *and* Petit-Constable *in Common about Rogues.*

IT is the duty of all these officers to punish Rogues and Vagabonds: As touching this part of their office, two things are to be known. 1. What a Rogue is, and who is to bee accounted a Vagabond. Secondly, what is to be done unto him.

Against Rogues and Vagabonds 39 *Eliz.* 4. 1 *Jac.* 7. *Dalt.* *J. P.* 96. *Lamb.* *J. P.* 192. 39 *Eliz.* 17.

As touching the former of these, these things are to bee knowne, that all the Persons hereafter mentioned, being above the age of seven yeeres, and offending as hereafter is mentioned, shall bee adjudged Rogues, or at the least shall bee punished as Rogues (*viz.*) 1. All persons going about begging, upon any pretence whatsoever, as Seafaring men, pretending losses of their Ships or goods upon the Sea, or such as call themselves Schollers, or the like. Secondly, All idle persons going about the Countrey, eyther using any subtle craft, or unlawfull games, or being Fortune tellers, or Juglers, or using any such craftie Science. Thirdly, Stage-players declared to bee Rogues, and to bee punished by Ord. *Feb* 1647. 4. All persons that bee, or utter themselves to bee Proctors, Procurers, Patent-gatherers or collectors for Gaoles prisons or Hospitalls. And yet patent gatherers for fire, or the like, albeit perhaps they may bee within the words of the Statute, yet are they not had or reputed as Rogues,

who a Rogue is. *Numb.* 1.

nor ſo to bee dealt with; for ſuch Patents are alwaies made with a *non obſtante* the Statute 5. All Fencers, Beare-wards and Minſtrels wandring abroad. 6. All Tinkers, Pedlers and petty-Chapmen, and alſo Glaſſe men that wander up and downe the Countrey to ſell wares: But if they bee going to a Fayre or Market only, they are not to bee taken as Rogues. 7. All wandring Perſons and common labourers, being perſons able in Body, uſing loytering, and refuſing to worke for ſuch reaſonable wages as is taxed, or commonly given in ſuch parts where ſuch perſons ſhall dwell or abide, not having living otherwiſe to maintaine themſelves; and yet ſuch perſons as be of any pariſh, and have able bodies to worke, and doe not wander abroad out of the pariſh, though they refuſe to worke for the wages given or taxed, are not to bee ſent to their place of byrth or laſt habitation, &c. but to the houſe of Correction. 8. All poore perſons that are appointed to aske reliefe in the pariſh where they dwell, by the Overſeers thereof, if they ſhall beg in any other ſort then is ſo appointed them, or ſhall beg by the high-wayes, though in their owne pariſh. And yet theſe perſons are not to bee ſent to their place of byrth or out of the Towne, except it bee to the houſe of Correction; and ſo alſo it ſeemeth of all other perſons that beg in the pariſh where they dwell, without the appointment of the Overſeers; in theſe caſes they are to bee ſent to the houſe of Correction. 9. All perſons (not being Felons) wandring and pretending themſelves to bee Ægyptians

Lamb. J. P. 97.

or wandring in the habit, forme or attyre of counterfeit Ægyptians. 10. All ſuch perſons, as being puniſhed for Rogues, and having a teſtimoniall, through their own default ſhall not purſue the order appointed by the Teſtimoniall aforeſaid; for ſo often as they ſhall breake the ſame, they are to bee taken and whipped againe, untill they come to the place appointed them by the Teſtimoniall. 11. All ſuch poore perſons diſeaſed and impotent that (being Lycenſed) travell from their home to the City of *Bathe* or Towne of *Buxton*, to the Baths, for eaſe of their griefes, or from thence homeward that ſhall beg; or if ſuch perſons bee not lycenſed by two Juſtices, or ſhall not returne home againe according as they are lymited by their Lycenſe, or ſhall not bee provided of reliefe for their travaile. 12. All Souldiers or Mariners that ſhall beg or ſhall counterfeit any Certificate from their Generall or Governour (but this in ſome caſes is Felony, *Stat.* 39 *Eliz.* 17.) And yet it hath beene held that if a ſea-faring man ſuffering Shipwrack, or a poore Souldier or Mariner, not having wherewith to relieve himſelfe in his travell homewards, and having a Teſtimoniall under the hand of ſome one Juſtice of Peace, of, or neere the place where he landed, ſetting down therein the place where, & the time when he landed, & the place of the parties dwelling & byrth, whither he is to paſſe, & a convenient time for his paſſage, that if in this time & way they had begged, that they were not to bee accounted Rogues; But it ſeemes the Law, at this day, is taken by moſt men to

bee otherwiſe, and that this Lycenſe will not ſerve for the Souldier or Mariner (eſpecially if hee bee hurt or maymed) for then hee may and ought to bee relieved with money by every Treaſurer of the County where hee paſſeth (*viz.*) a convenient ſumme of money to carry him through the ſame, to the next County. And it is thought that at this day, no Juſtice of Peace can lycenſe a man to beg in any caſe; Howbeit in ſome caſes hee may Lycenſe a man to wander, as in the caſes before. The Juſtices of Peace may lycenſe poore men to travell to the Bathes, and poore Souldiers and Mariners to travell to their place of byrth, and one Juſtice of Peace may lycenſe a labourer in the Harveſt time to goe out of his owne Countrey into another Countrey to worke; And therefore if at this day a Souldier or Mariner ſhall bee taken begging, or ſhall counterfeit a Certificate, hee is to bee accounted a Rogue. 13. A Rogue, &c. That ſhall goe with a generall Paſport (*viz.*) ſuch a Paſport which is not directed from pariſh to pariſh, is ſtill to bee accounted a Rogue, and may bee puniſhed, by whipping againe, and ſo alſo may ſuch a Rogue as ſhall carry his owne Paſport without a Guide. 14. All Servants departing out of ſervice without a Teſtimoniall, &c. or which ſhall bee taken with any counterfeit or forged Teſtimoniall. 15. All perſons that are able to labour, and thereby to relieve themſelves and their families, and ſhall run away, or threaten ſo to doe, and to leave their families to the pariſh. 16. And all perſons infected of the Plague, and commanded by any

Dalt. J.P. 92.

5 Eliz. 4.
7 Jac. 4.

1 Jac. 31.

any of these Officers to keepe in their Houses, that doe notwithstanding goe abroad amongst their Neighbours.

what is to bee done to him. *Numb.* 2. 39 *Eliz.* 4 1 *Jac.* 7.

2. As touching the latter question, what is to bee done to a Rogue these things are to bee knowne. 1. Every one of these officers must doe his best endeavour to apprehend every one of these Vagabonds, Rogues, or sturdy Beggers which shall bee found and taken Begging, Vagarant wandring or misordering themselves within their Hundred, Parish, or Tything,. And if any other man bring any such Person to any of these officers, hee must take hold of him. 2. After hee hath apprehended any such Rogue (except it bee the Rogue that doth run or threaten to run from his Family) hee is to take order (with the advise of the minister and one of the Parishoners of the place) that hee bee stripped naked from the middle upwards, and that hee bee openly whipped untill his or her body bee bloody. 3. After this whipping the party must have a Testimoniall subscribed with the hand, and sealed with the seale of the same officer and Minister testifying that the same Person hath been punished according to this Statute, & mentioning the day and place of his or her punishment, and the place whereunto such Person is limitted to goe, and by what time the said Person is limitted to passe thither at his perill after this manner.

John a Style *a sturdy vagarant Begger (of lowe personage, red Haired, and having the nayle of his right Thumb cloven, aged fourty yeeres, was this sixt day of* Aprill An.

Dom. 1650. *openly whipped at* W. *in the* County *of* Gloceſter *for a wandring Rogue according to the Law and is aſſigned to paſſe forthwith from Pariſh to Pariſh by the officers thereof the next ſtrait way to* Sale, *in the* County *of* Eſſex *where (as hee confeſſeth) hee was borne [or dwelled laſt by one whole yeer and if the caſe be ſuch] and he is limitted to be at* Sale *aforeſaid within ten dayes now next enſuing at his perill. Given under the Hand and Seale of* A.B. *Miniſter of the the ſaid Pariſh of* W. *and of* C.D. Conſtable *of the ſaid Pariſh.*

And this Teſtimoniall muſt hee Regiſtred in a Book provided for that purpoſe by the ſame Miniſter under paine of five Shillings. 4. The party muſt bee then forthwith ſent by the ſame officer to the next Pariſh that from thence he may be conveyed from Pariſh to Pariſh by the officers of the ſame Pariſhes, the next ſtraight way to the Pariſh where hee was borne, if the ſame may bee knowne by the partyes confeſſion or otherwiſe: And if the ſame may not bee knowne, then to the Pariſh where he or ſhee laſt dwelled by the ſpace of one yeer before the time of the ſame puniſhment done, there to put him or her ſelfe to labour, or not being knowne where hee or ſhee laſt dwelt or was borne, then to the Pariſh where hee or ſhee laſt paſſed through without puniſhment and thence to be conveyed from officer to officer to the houſe of correction of the limit wherein that Pariſh doth ſtand, or to the Gaole of the *County*. And in theſe caſes it is the duty of theſe officers alſo to take and convey theſe Perſons from hand

hand to hand, each of them from his owne to the next *Tything* accordingly: And in this time they are not to Beg but are to bee provided for at the charge of the Pariſhes through which they are conveyed, the officer laying out the ſame for the Pariſh. And upon this part becauſe the execution of theſe Lawes is required in theſe officers, for their better direction herein theſe things (ſaid to bee reſolved by the Judges at *Weſtminſter* ſoone after the making of the Statute of 39 *Eliz.* 4) are to bee obſerved. 1. If a Rogue ſay hee was borne at ſuch a place and it cannot appeare that hee was borne elſewhere, hee muſt bee ſent thither. 2. If the Husband or Wife have a Houſe, and the Husband or Wife rogue about, they ought to bee ſent to the Towne where the Houſe is, and ſo of an Inmate. 3. The Wife and Children under Seven yeers of Age being vagarant muſt goe and bee placed with the Husband, and if the Husband bee dead, then with the Wife, where ſhee was borne or dwelt. And the vagarant Children above Seven yeers of age muſt bee ſent to the place of their Birth: And if the vagarant Parents with their Children under Seven yeers, bee placed at the place of Birth of the Parents, or at the place of laſt dwelling (as the caſe ſhall fall out) if afterwards the Parents or eyther of them dye, or run away, yet the Children once ſettled muſt remaine there ſtill and may not bee ſent to their place of Birth though after they grow to the age of Seven yeers. 4. The Wife being

ing a vagarant Rogue ought to bee sent to the Husband though hee bee but a Servant in another Towne. 5. The Rogue whose place of byrth or dwelling cannot bee knowne, having wife or children under seven yeeres of age; they must goe with the husband to the place where they were last suffered willfully to passe through without punishment, where the children must bee relieved with the worke of their Parents, though their parents bee committed to the house of Correction. 5. If any of these officees doe not their uttermost endevor to take, punish, and convey such Rogues according to the Statute, they forfeit ten shillings for every default; and if any other man shall bring any such Rogue to the officer, and he refuse to take and punish him as aforesaid hee doth forfeit twenty shillings for every time hee so doth; and if any man hinder the punishment or conveyance of Rogues after this sort as if any man shall make rescues against any person authorized for the execution of this Statute, or any man convey Rogues by a generall passport, without conveying them from parish to parish, or if any Constable will not receive a Rogue when hee is brought to him in the right way, according to his passe, or if he accept him and doe not convey him to the next officer; for every of these offences, the offendor doth forfeit five pounds, and is to bee bound to the good behaviour; and if the Rogue bee brought and delivered, or offered to the Churchwardens or Overseeers of the poore, or eyther of them (to whom hee is to bee offered) they must accept him and look

to

to him, or elſe they doe forfeit for every default herein five pound, and they are to bee bound to the good behaviour; and if theſe officers doe take him, it ſeemes they may deliver him over to the Conſtable preſently. For, it ſeemes the Rogue is to bee delivered or offered to the Churchwardens and Overſeeers (who are to ſee him relieved there) but hee is to bee carried and conveyed by the Conſtable; and yet if the Conſtable will not receive him at their hands, the Churchwardens and Overſeeers themſelves muſt, at their perill, ſee him conveyed to the next pariſh. 6. Conſtables are not to poſt away ſuch perſons as ſhall come or bee ſent unto them, that are deſperately ſick, or women with childe, ready to bee delivered, but are to keepe ſuch till they recover ſtrength, for by this meanes many have periſhed; neyther are they to deliver any Vagabonds or Cripples to the next Conſtables, after Sun-ſet, or to convey ſuch eſpecially Cripples, by horſe or cart upon the Lords day, upon paine of puniſhment. 7. If any of theſe Rogues ſhall appeare to bee dangerous to the inferior ſort of people of the place, as if hee ſhall threaten, or offer any violence to them, or will not bee reformed by this meanes of his Roguiſh kinde of life, as in caſe where hee hath beene puniſhed and ſent to his place of byrth, and doth then fall to his roguiſh kinde of life againe, or when he ſhall ſay hee was borne, or laſt dwelt in ſuch a place, and in truth it is not ſo; in theſe caſes ſuch a perſon is to bee accounted an incorigible Rogue; ſo alſo is him that acteth as a

Incorigible Rogues. Numb. 3.

Ord. 11. *Febr.* 1647.

Stage

Stage player the second time after conviction. And it is the duty of these officers if any of them meete with such persons within his liberty, to carry him before some Justice of Peace, there to bee ordered by him according to the Statute. 8. If any Warrant bee sent from the Justices of Peace to any of these officers, to convey any Rogue or other idle or disorderly person unto any house of Correction within the said Countie, they must bee carefull, at the charge of the Hundred, to doe the same, under paine to forfeit for every default, what Fine (not exceeding forty shillings) the Justices shall impose upon him that doth offend. 9. The Justices of the Peace of every Division, are to keepe a private Sessions twice a yeere, at the least, to looke to the execution of Statutes for the houses of Correction, and for the punishment of Rogues, and they must then foure or five dayes before, send their Warrants to all these officers within the Division, to require them that they, being assisted with some others sufficient men of the place, doe make privy search in one night within their precincts, to finde out and apprehend such Rogues & idle persons, & to bring them, if they find any, before the said Justices at their meeting; And this these officers must be carefull to doe accordingly. And all these officers must appeare at the said meeting, and then and there certifie upon their oathes, in writing, under the hands of the Ministers of the places where they dwell, what Rogues and Vagabonds they have taken in the same search, or since the last meeting of the Justices, and whom they have punish-

Conveying him to the House of Correction.

Private Sessions. Numb. 4.

Search.

ed

ed and ſent to the houſe of Correction, under paine to forfeit for every default whatſoever the ſaid Juſtices (under forty ſhillings) ſhall aſſeſſe. 10. Theſe officers are to take and puniſh, and convey to other officers every Rogue and Begger that ſhall bee brought and ſet on the Land here from *Ireland*, *Scotland* or the *Iſle of Man*, till hee come to the next port or pariſh, in or neere, where hee was firſt landed, under paine to forfeit ten ſhillings for every default. 11. It is every mans duty, as well as theſe officers, to cauſe to bee apprehended ſuch Rogues as hee ſhall ſee or know to reſort to his houſe, to begge or receive any Almes, and him, or them, ſhall carry or cauſe to bee carried to the next *Conſtable*, or elſe ſhall forfeit, for every default herein ten ſhillings. 12. The perſon that ſhall runne from his Familie, and leave it to the Pariſh, is to bee puniſhed as an incorrigible Rogue: And hee that doth threaten ſo to doe, is to bee ſent to the Houſe of Correction, unleſſe hee can give Suretyes for the diſcharge of the ſaid Pariſh.

1 *Jac.* 7.

7 *Jac.* 4.

SECT.

SECT. 7.

Of the office of the High-Constable *and* Pettit-Constables, *about Search for, or Seizing on Persons or Goods.*

1. THey may search *Ale-houses, Tobacco-houses*, for Tiplers, and Idle Persons on the Lords day. *Act.* 29 *April* 1650. 2. A Felony being newly committed, the Constable within his lymits may (*ex officio*, and without any Warrant from a Justice of Peace) & ought to search for the Felon or the goods. See more for this in *Sect.* 1. of this Chapter before. 3. These officers are to search houses suspect to dresse meat in the Lent and to seize it and give it to the poor, 1 *Jac.* 29. 4. These officers are once every fifteene dayes to search and inquire the defaults of *Innes* and *Ale-houses*. 5. They may search suspect places for Nets and Doggs to take Partridges and Pheasants. 6. The High-Constable may search for Engines used for stretching of Cloth and deface them. 7. They may search for bad Mault. 8. If any man fly for a Felony the Constable of the Towne may and ought to seize on and keepe safely his goods, because the Towne is to answer for them, and it is best to bee done by Indenture taken by the Teste and before the Inhabitants. So upon the apprehending of the Person for Felony

23 *Eliz.* 10.
7 *Jac.* 11.

39 *Eliz.* 20.

Falony the officer may ſeize on all his goods and Chattells and keepe them ſafe letting the owner have ſo much of them, as is for his neceſſary maintenance untill his conviction, for till then the property is not altered.

SECT. 8.

Of the Office of the High-Conſtable *and* Petit-Conſtable, *about making and levying of Rates.*

THE Juſtices of the Peace or the more part of them may at their generall Seſſions holden after Eaſter yeerly (if they thinke meet) rate every Pariſh weekely at their diſcretion, ſo as no one Pariſh bee rated above ſix pence nor at leſſe then one halfe penny by the weeke, and ſo as the totall rate of the County amount not to above ſeven pence for every Pariſh within the County, the which money is to bee diſtributed for the reliefe of the poore priſoners in the upper Bench and Marſhalſey and ſuch Hoſpitalls and Almes-houſes as are within the County according to the diſcretion of the Juſtices, ſo as there bee ſent out of every County yearly twenty ſhillings to the upper Bench and twenty ſhillings to the Marſhalſey by a quarterly payment. And this ſum in every Pariſh is to bee aſſeſſed by the agreement of the Pariſhoners within

Rates for the upper Bench and Marſhelſey.
43 Eliz. 2. Numb. 1.

within themselves in the making of which rate their best way is to follow the rule of the taxation of men for the poor, or in default thereof by the *Church-wardens* and petit-Constables of the place or the more part of them, and in default of their agreement by the order of the Justice of peace within the same Parish (if there bee any) or if not, of the next Justice of Peace in the next parts adjoyning. And if any Person of the Parish so taxed refuse or neglect to pay the same rate, the *Church-wardens* and Constables or any of them, or in their default any Justice of Peace of the said limits may levy the same by distresse and sale of the offenders goods rendring to him the overplus. And these sums taxed by the Justices on every parish the *Church-wardens* of the Parish must collect and pay over to the high-Constable of the Hundred quarterly tenn dayes before the end of every quarter. And if the *Church-wardens* or *Petit-Constable* their executors or adminstrators, faile to pay this money, the *Church-wardens* their executors or adminstrators, shall forfeit tenn shillings. And after this the *High-Constable* must pay over the same at every quarter Sessions to the Treasurers of the County or any of them. And if hee, his executors or adminstrators, doe not so, they shall forfeit twenty shillings. And these forfeitures the Treasurers may and must levy by distresse and sale of their goods rendring the overplus to the party; and when he hath recovered the money he must imploy it to the uses

uſes aforeſaid; and if any Action ſhall bee brought againſt any officer, for doing any thing by virtue of this Act, hee may plead in generall, that it was done by authoritie of this Statute, without ſhewing any other ſpeciall matter; and if it paſſe with the Defendant, or the Plaintif bee nonſuite after appearance, the Defendant ſhall recover treble Damages.

Plea.

Coſts.

Two Juſtices of Peace may rate a *Hundred* for the money recovered againſt the ſame, and levyed upon one man of the *Hundred* for a Robery; and then theſe officers of the ſeverall places townes and pariſhes, may and muſt, rateably and proportionably, taxe and aſſeſſe every inhabitant and dweller within the ſame place, according to his abilitie, towards the payment of the Rate and Aſſeſſement made by the Juſtices. And this money ſo rated, they muſt afterwards Collect; and if the parties ſo taxed refuſe to pay this Rate, theſe officers may, of their owne authoritie, diſtraine every perſon by his goods and Cattells that ſhall refuſe to pay the ſame, and may ſell the ſame goods, and retaine ſo much of the money, made thereof, as his taxation ſhall come unto, and the overplus of the money made of the ſame goods, they muſt deliver to the perſon ſo diſtrayned. And within ten dayes after the Collection of thoſe monies, they muſt pay over the ſame to one of the Juſtices of the Peace that made the ſame Rate, to the uſe of the Party robbed.

Rates for money recovered againſt a hundred for a Robbery. *Numb.* 2. 27 *Eliz.* 13.

If any Perſon be ſent to the common Gaol of the County by any Juſtice or Juſtices of the Peace

Rates to carry an offender to Gaole. *Numb.* 3. 3 *Jac.* 10. *Dalt. J.P.* 298.

Peace for any offence, the same Person if hee have ability and Estate of his owne to doe it must beare his owne and his attendants charges and this if hee refuse to defray, then such Justice or Justices of Peace that so sent him to Gaole may by Warrant under his or their Hands & Seals give power unto any of these officers of the place where such Person shall bee dwelling, or from whence hee shall bee committed, or where hee shall have goods by the appraisment of four of the honest Neighbours of the place to sell so much of his goods as to discharge it, and to render him the over plus: And in case such Person shall not have any goods knowne within the County, whereby to make satisfaction, then that the Constables and *Church-wardens* and two or three others of the honest neighbours of the place where the said offender shall bee taken (if there bee any such officers there) or otherwise four of the principall Inhabitants of the place shall make a rate which being confirmed by the hand of one or more Justices of the Peace, shall binde the Inhabitants. And if any so taxed shall refuse to pay the rate the same Justice or Justices that did commit the offender, or any other Justice of Peace neere adjoyning may give Warrant to any of these officers of the place to distraine his goods there and to sell the same. And then, and thereupon the officer may and must take some of his goods and appriſe them by four substantiall neighbours, and afterwards hee may sell so much thereof

hereof as to pay the ſame rate; and if there e any over-plus, he muſt deliver the ſame to he party taxed. Every Pariſh ſhall be charged o pay weekly ſuch a ſum of money, towards he relief of Sick, Hurt, and Maimed Souldiers Mariners that have loſt their Limbs or diſbled their bodies in the publique Service, as y the more part of the Juſtices of the peace at heir generall Quarter-Seſſions holden after Eaſter, yeerly ſhall be taxed, ſo as no pariſh be ared above the ſum of ten-pence, nor under the um of two-pence weekly, to be paid, and ſo s the totall ſum of ſuch Taxation of all the Pariſhes in any County where there ſhall bee bove fifty Pariſhes, doe not exceed the rate f ſix-pence for every Pariſh. The which ums ſo taxed ſhall bee yeerly aſſeſſed, by the greement of the Pariſhioners within themelves [in the making of which rate, the beſt ay to follow the rule of Taxation for the oor] or in default thereof, by the *pety-Conſtales* and *Church-wardens* of the Pariſh, or the more part of them, or in default of their agreement, by the order of the Juſtice or Juſtices f the Peace living within the Pariſh, or (if ere be none) living in the parts next adjoyning. And if the parties rated refuſe to pay the ame, the *Conſtables* and *Church-wardens*, and very of them; or in their defaults, the ſaid uſtice or Juſtices of Peace, may levy it by direſſe & ſale of the Goods of the partie, rendring to him the over-plus. And this money he *Church-wardens* and *Conſtables* muſt collect, and pay to the *high-Conſtable* of the Diviſion, ten dayes before every Quarter-Seſſions.

Rates for the maymed Souldiers Mariners. 43 *Eliz.* 3. *Numb.* 4.

sions. And the *high-Constable* also, at the same Sessions, must pay over the same money again to any one or two of the Justices of Peace, or to the Treasurer or Treasurers of the said Collection, under pain of forty shillings to be forfeited by the *high-Constable* for every default; and under pain of twenty shillings to be forfeited by the *pety-Constable* for every default of his, the same money to be recovered by the said Treasurer by sale of the offendors Goods, as aforesaid, and to be imployed by him to the use of the Poor, maymed Souldiers, and Mariners.

Rates for the Prisoners in the Gaole.
Numb. 5.
14 *Eliz.* 5.
2 *Jac.* 25.

They are to make a Quarterly payment of all such summs of money as are raised in every Parish and payd to them by the *Church-wardens* of the Parishes, for the relief of the poor Prisoners in the common-Gaole, under pain of five pounds. And this money the *Constable* in some places doe pay to the *high-Constable.*

Rates for the amending of Bridges.
22 *H.* 8. 5.
Numb. 6.

They are to be ayding and assisting to the four Justices of Peace, appointed and authorized for the making of Taxes for reparations of Bridges, according to the Statute of 22 *H.* 8. For these Justices are to make this Taxation by the assent of the *Constables*, or of two of the most honest Inhabitants of the Parish.

Rates for the house of Correction.
39 *Eliz.* 4.
Numb. 7.

The Justices of the Peace at the Quarter Sessions may Tax the County towards the erection and maintenance of houses of Correction. And all these officers must doe their uttermost to put the same Statutes in execution.

These officers must levy such monies as they are commanded by Warrant of Justices of Peace (having taxed the same for the relief of the Poor infected with the Plague) under pain to forfeit twenty shillings for every default to the use of the persons infected.

Rates for Persons having the Plague. 1 *Jac.* 31. *Numb.* 8.

SECT. 9.

Of the Office of High-Constables *and* Petit-Constables, *about Inn-keepers, Ale-houses, Dunkards, Tiplers, &c.*

1. IF an Inne-keeper, &c. refuse to receive a traveller when his house is not full, & having no good reason for it, this officer may compell the Inn-keeper to receive him: But how hee may compell him is doubted: For it seems all he can doe, is, to cause him to be indicted at the Sessions, or to be suppressed for it.

2. If any person without lawfull lycense take upon him (except it be at Fayre times only) to keep a common Ale-house or Tipling-house, or use commonly selling of Ale, Beer, Cider, or Perry, he shall forfeit for every such offence twenty shillings, to the use of the Poor of the place (the offence being viewed by one Justice of Peace, or confessed by the party, or proved by one witnesse before him:) And this forfeiture may be, or is to be levyed by the *Constables* or *Church-wardens* of the place, by Warrant from a Justice of Peace, &c. And they, by virtue of such a Warrant may,

and muſt by diſtreſſe take into their hands ſo much of the offendors Goods to pay the ſame. And if he pay not the money within three dayes after the diſtreſſe taken, they muſt appriſe and ſell the ſame Goods, and keep up the ſame money; and if there bee any overplus, they muſt render the ſame to the partie. And if the party ſhall not have Goods, &c. or ſhall not pay the ſame within ſix dayes after conviction; then the Juſtice of Peace, &c. may commit the offendor to any of theſe officers to be openly whipped according to the diſcretion of the Juſtices of Peace. The which theſe officers (being charged herewith) muſt ſee they carefully doe; for otherwiſe they may be committed to Gaole by the ſame Juſtice of Peace, there to abide without Bayle or Mainpriſe untill they doe procure the ſame offendor to be whipped according to the Warrant of the Juſtice of Peace, or untill they pay forty ſhillings unto the uſe of the poor of the Pariſh. 3. If any perſon lycenſed ſhall utter or ſell leſſe then one full Ale-quart of the beſt Beer or Ale for one penny, and of the ſmall two quarts for one penny (the ſame being proved by one witneſſe, before one Juſtice of Peace) ſhall forfeit twenty ſhillings. And if any perſon whatſoever, Townſ-man or Stranger, ſhall bee, and abide Tipling in any ſuch houſe (the ſame being proved by one witneſſe, or the parties own confeſſion, before one Juſtice of Peace:) In this caſe, and for this offence, the Inn-keeper, &c. owner of the houſe, for ſuffering this in his houſe, doth forfeit ten ſhillings for every ſuch offence.

And

And the party that doth so tipple, doth forfeit for every such offence three shillings fourpence, and these sums are to be levyed by the *Constables* and *Church-wardens* of the place where the offence is done, by distresse and sale of the offenders goods, upon Warrant from one Justice of Peace. And if the Inn-keeper, &c. have no Goods to be distrained, hee may bee by the Justice of Peace committed to the Gaole, there to be kept until he pay the money: And if the Tipler be not able to pay his forfeiture, he is by Warrant from a Justice of Peace, to be made to sit in the Stocks four houres. And all these summs are to goe to the use of the Poor of the Parish where the offence is committed. And in cases of forfeiture by Innkeepers &c. for selling by unlawfull Measures, or for suffering Tiplers in their houses, if the *Constables* or *Church-wardens* shall neglect to levy, or shall not levy the said severall forfeitures, or in default of distresse shall neglect by the space of twenty dayes to certifie the same defaults of distresse to the Justices of Peace; then every such *Church-warden* or *Constable* shall forfeit for every such default fourty shillings to the use of the poor of the same place, to bee levyed by Warrant from the Justices of Peace to some indifferent men. And for want of distresse the same *Constables* and *Church-wardens* may bee by any such Justice of Peace committed to the common Gaole, there to abide untill they pay the forfeiture. And for all these moneys so recovered by the *Church-*

wardens or *Constables* they shall bee accoun-
table to their succeſſors and other the Pa-
riſhioners in ſuch ſort as they uſually bee i
other Church reckonings or accounts. An
for the forfeitures levyed by others upo
the officers, they that levy the ſame ſhall be
accountable therefore. And if any man be
drunke, and thereof convict, hee is to for-
feit five ſhillings for the ſame, which hee
to pay within a weeke after the conviction
to the *Church-wardens*, to the uſe of the poo
of the place, to bee levyed (on the neglect
or refuſall of the party to pay it) by War-
rant from the Court Judge or Juſtices, be-
fore whom the ſame conviction was, upo
the offenders goods. And this Warra
may bee made to the *Conſtables* or *Church-
wardens*. And if the party bee not able t
pay it; then hee is, by Warrant from th
Juſtice of Peace, to bee ſet in the Stock
and there to ſit ſix houres. And for the
ſecond offence, hee is to bee bound to th
good Behaviour. And all theſe officers
are in their oathes, incident to their office
to bee charged to preſent the offences a
gainſt the Statute of 1 *Jac.* and 4 *Ja.*
which are for ſelling by unlawfull Meaſures
tippling, and ſuffering tippling, and drun-
kenneſſe, and in caſes of forfeitures for drun
kenneſſe, and for tippling againſt the tipplers
themſelves, and for not making preſent-
ments, being required; If theſe officers o
the *Church-wardens* ſhall neglect their du-
tyes in levying the ſaid penaltyes, and du
Correction of the offenders as aforeſaid

hey ſhall forfeit for every default tenn ſhil-
ings to the uſe of the poore to bee levyed
aforeſaid by Warrant from the Juſtice
f Peace, &c. But for drunkeneſſe or tip-
ling no man may bee proſecuted after ſix
oneths after the offence committed: And
for ſuffering tippling and ſelling by un-
awfull Meaſures the Ale-houſe-keeper, &c.
ay bee puniſhed at any time. In all theſe
ſes and upon all theſe Statutes the offi-
ers are to take care when any Warrant is
ent unto them from any Juſtice of Peace, Ma-
or, Bayliefe, &c. that they ſee it duely and
arefully executed, for feare of the ſeverall
uniſhments aforeſaid.

SECT. 10.

Of the Office of the High-Conſtable *and* Petit-Conſtable *about May-Poles, Stage-Playes, Clothiers, Diſturbance of Miniſters, Labourers and Servants; Moneys forfeit about High-wayes, making Supraviſors for High-wayes; Such as have the Plague, Hedg-breakers, Maulters, &c.*

NO *May* Poles may be ſet up, and if any b e, they muſt bee forthwith, *Numb.* 1. aken downe by the *Conſtables, Tything-men, and Church-wardens*, of the place un-er paine of five ſhillings a weeke, to bee *May Poles.*

forfeited by these officers till it bee pull
downe. And if any Justice of Peace se
his Warrant to the *Constables*, or *Church*
wardens of the place, to levy this money o
the offendor, he must doe it. *Ord.* 9. De
1646.

Stage Playes.
Numb. 2.

2. No Stage-Playes may be acted, th
Actors are to be punished as Rogues: Th
Spectators forfeit five shillings a time, and th
money collected is forfeit. And if any Wa
rant come from a Justice of Peace to th
Church-wardens or *Constables* of the place, t
levy these forfeitures, they must execute i
Ord. 11. *Febr.* 1647.

Clothiers.
7 *R.* 2. 9. *Fitz.*
J.P. 203.
Numb. 3.

3. He that shall espy and prove defaults i
any Cloth set to sale, against the Assize ap
pointed for Clothes, and against the form
the Statutes, shall have the third part of ever
such defective Cloth for his travell, by the de
livery of the Sheriffs, if they be present, or th
Lords of Fayres and Markets; or of the Ste
wards, Bayliffs, or Constables of the place
where the said defective Clothes are found b
Indenture made betwen them: The whic
Indentures must be delivered yeerly at th
Feast of St. *Michael* into the Exchequer, w
the intent to charge the Aulvegers and Co
lectors, by whom such defaults should be
searched and amended. By which Statute th
officer being required, is to take and deliver
a third part of all such Clothes as are found
so defective by Indenture.

Disturbance of
Ministers.
1 *Mar.* 3.
Numb. 4.

4. None may purposely by word or dee
[as by talking, laughing, hemming, or the
like] without authority, disturb a Minister in
his

his preaching of the Word, Praying, or administring of the Sacraments: And if any do so, any one of the *Constables* or *Church-wardens* of the place may of his own authority presently apprehend him and carry him to a Justice of Peace of the same County, who may (if hee think it meet) commit him to safe custody; and within six dayes after, taking with him another Justice of Peace, must examine the matter; and if by proof of two witnesses they finde it true, they must commit the party to Gaole, where he is to be for three moneths.

Labourers and Servants. *5 Eliz.* 4. *Numb.* 5.

5. Any one of these officers may, and must in the time of Hay or Corn Harvest, upon request to him made by any man, and for the avoyding of the losse of Corn, Grain, and Hay, cause all such Artificers as hee shall see meet to labour, to serve by the day, for mowing or otherwise, for the getting in of Corn or Hay abroad, according as they see them fit: And if such persons shall refuse to work as aforesaid, being thereunto required by the officer; the officer may put him in the Stocks by the space of two dayes and one night: And this if the officer shall neglect to doe, hee shall forfeit forty shillings. No person retained in Husbandry, or in any Arts appointed by the Statute of Labourers, made in 5. *Eliz.* may depart after the time of such retayner expired, out of the Town or Parish where hee last served, to serve in another, unlesse hee have a Testimoniall under the Seale of the *Constable*, or other such officer, and two other honest Housholders of the Town or Parish where

Departing without a Testimoniall. *5 Eliz.* 4. *Numb.* 6.

where he last served, according to this form: *Memorandum, That* A. B. *late Servant of* C. D. *of* E. *in the County of* G. *Husbandman (or Taylor, &c.) is lycensed to depart from his said Master, and is at liberty to serve elsewhere, according to the Statute in that case made and provided. In witnesse whereof, &c. Dated the day, moneth, yeer, and place of the making thereof.* The which Testimoniall, the Minister of the Parish where such Master, Mistris, or Dame doth dwell, ought to register, taking only two-pence therefore. And if any such person be admitted into any other service without shewing any such Testimoniall to the Constable, or such other officer, Curate, or Church-wardens of the place where he shall be accepted, he shall be imprisoned untill he procure such a Testimoniall; the which if he doe not within twenty one dayes, next after the first day of his imprisonment; or if he shall bring a counterfeit Testimoniall, he is to be whipped as a Vagabond, and he that shall receive any such person into his service doth forfeit five pound for every such offence.

Monies forfeit for high-wayes and making Supravisors for the high-wayes 2. & 3. *Ph. & M.* 8. *Numb.* 7.

6. First, The pety-Constables, &c. are to joyn with the Church-wardens to take the Estreats of the forfeitures of offendors against the Statutes for the High-wayes: And they are to call the high-Constables to account for the Monies they have received of such offendors, and to take the same moneys into their hands, and to bestow the same upon the reparation of the high-wayes of the place. Secondly, The Constables and Church-wardens of every Parish

ought

ought yeerly upon the Tuesday or Wednesday in Easter week, to call together a number of the Parishioners, and to choose two honest men of their Parish to be Surveyors of the work for amendment of the high-wayes within their Parish, leading to any market Town; and then ought also to appoint six dayes for the amendment of those wayes, before Midsomer then next following, and ought also openly in the Church, the next Sunday after Easter, to give knowledge of the same six dayes, upon pain of fine, making to be assessed by the Steward of the Leet: or in default thereof, by two Justices of the Peace, in open Sessions, as in their discretion shall be thought meet.

About persons that have the Plague. 1 *Jac.* 31. *Numb.* 8.

Any one of these officers [in times and places of infection with the Plague] (if the infection bee out of any Citty, Borough, Towne, Corporate, Priviledged place, or Market-Towne) may command or appoint, Persons infected, or being, or dwelling, in any house infected, to keep their house, for avoyding of further infection: And if notwithstanding such Persons, doe willfully and contemptuously disobey such direction, and appointment, offering, and attempting, to breake or goe abroad, and to resist, or going abroad and resisting such keepers, or Watch-men as are appointed to see them kept in: It is lawfull for such Watch-men, with violence to enforce them to keepe their houses. And if any hurt come by such enforcement to such disobedient Persons the said Keepers, Watch-men, and other their assistants,

aſſiſtants ſhall not bee impeached therefore. And every infected Perſon, ſo commanded by any of theſe officers, to keep their houſe, which contrary to ſuch commandement wilfully and contemptuouſly goeth abroad and converſeth in company, having any infectious ſore upon him uncured, becometh Felon: But if ſuch perſon have not ſuch ſore found about him, then for his ſaid offence he is to be puniſhed, as a Vagabond, and ought to bee by Stat. 39 *Eliz.* 4. and further to bee bound to his good behaviour for a yeere.

The *Conſtable*, &c. That ſhall wilfully make default in levying ſuch money as they ſhall be commanded to levy by the Warrant of two Juſtices of the Peace, upon the Statute for the reliefe of any Towne infected with the Plague, ſhall forfeit for every ſuch offence Ten ſhillings.

Hedg-breakers 43 *Eliz.* 7. *Numb.* 9.

8. If a Juſtice of Peace, ſend his Warrant, to any one of theſe officers, for the whipping of any Perſon, convicted before the Juſtice for robbing of Orchards, cutting or pulling up of Wood, Corne, or any ſuch like treſpaſſe; the officer muſt by himſelfe or ſome other, ſee that the ſame bee done accordingly; for otherwiſe for his neglect therein, hee is to bee committed to Goale by the ſame Juſtice of Peace, and there to bee kept untill hee doe procure the ſame Perſon to bee whipt, according to the ſame Juſtice of Peace Warrant.

Maulters. *Numb.* 10.

9. The *Conſtables*, alſo of every Borough, or Towne, may ſearch, and ſurvey, all ſuch Mault as ſhall bee made, or put to ſale there

there; and if they finde any Barley-Mault made at any time (the moneths of *June*, *July*, and *Auguſt*, only excepted) but that the ſame ſhall have the ſpace of three weeks, at the leaſt, in the Far, Floor, ſteeping and ſufficient drying thereof. And in theſe three moneths the ſpace of ſeventeen dayes at the leaſt; or if hee find any Perſon to put to ſale any good Mault mingled with Mault not ſufficiently made, or with Mault made with Mow-burnt or ſpired Barley; or that put to ſale any Mault not ſufficiently well trodden, rubbed and fanned whereby halfe a peck of duſt or more may bee fanned out of one quarter thereof; then may ſuch *Conſtable* with the advice of one Juſtice of Peace of that Shire, cauſe the ſame Mault to bee ſold to ſuch Perſons and at ſuch reaſonable prices, under the common price of the Market, as to his diſcretion ſhall ſeeme fit. But ſome ſay this doth not belong to ordinary *Conſtables*, but to the head *Conſtables* of Corporations. It ſeems to mee otherwiſe.

SECT.

SECT. II.

Of the office of the High-Constable *and* Petit-Constable, *about Recusants, Dressing meat in Lent, Purveyors, Souldiers departing from their Commanders, Abjured persons, imployment of Money given to Charitable uses, Takers of Pheasants, &c. Fish, High-wayes in* Kent, *stoned Horses, Colledg of Phisicians.*

Recusants. 1. THE *Constable* and Minister of the Parish, must take and enter into a Book, and certifie to the next Quarter-Sessions, the names of all Recusants sent thither by order: 35 *Eliz.* 8. 2. These officers if required by lawfull Warrant, must apprehend Popish Recusants excommunicate 3 *Jac.* 4.

Lent. No Butchers may kill or sell meat in Lent, under pain to forfeit it. And these officers may seize it, and give it to the poor: 1 *Jac.* 24.

Purveyors. If any Cator or other shall (without lawfull bargain) take upon him to purvey, or take up any thing whatsoever, of another, against his will, to the use of any great Lord or other person, and the party grieved give notice thereof to the *Constable*, or such officer of the place; in this case, and hereupon the officer (*viz.*) the *Constable* or *Tything-man* of the place,

place, must under paine of twentie pounds arest such Taker, and carry him to the next Goale, where hee is to remaine without Baile or Mainprise untill he redeliver the things so taken, or the value thereof.

Souldiers. Any one of these officers may arrest Souldiers arriving here that they suspect to have been in the service of the State, and are departed from their Captains without leave: 18 *Eliz.* 19.

Persons abjured. Persons abjured to goe to any Port, it seems must be conveyed by these officers.

Money given to charitable uses. These officers are to joyn with the Minister, Church-wardens, and Over-seers of the Poor, where money is given for the placing of poor Children apprentices in the imployment thereof.

Takers of Pheasants, &c. These officers may search suspect places for setting-Dogs and Nets to take Partridges and Pheasants. And the Church-wardens may sue for, and recover the forfeitures: 23 *Eliz* 10. 7 *Jac.* 11.

Takers of Fish. These officers and the *Church-wardens* being commanded by a Justices Warrant, must levy the forfeitures upon such as take Fish with unlawfull Nets 3 *Jac.* 12.

High-wayes in Kent. The penaltyes of the Statutes, for repaire of High-wayes in the wealds in *Kent*, *Surrey*, and *Sussex*, are to bee levyed by these officers by Warrant from the Clarke of the Peace, or two Justices, one of the *Quorum*. 39 *Eliz.* 19.

Stoned horses. *Constables* in *Cambridg-shire*, and the Isle of *Ely*, being desired, must measure the stone-Horses that goe in the Common; and must yeerly

yeerly drive the Common. 32 *H.* 8. 13. 8 *Eliz.* 8.

Colledg of Physicians.

1. These officers in *London* and within seven Myles thereof, are to attend upon the Colledge of Phisicians being thereunto required. 14 *H.* 8. 5.

SECT. 12.

Of the duty of High-Constables *and* Petit-Constables *in attending the Justices, Setting and making of Presentment.*

THe *High-Constables* and *Petit-Constables* are to attend upon, ayd, and assist, and execute the Warrants, of the Judges of Assise at their Assises and Gaol delivery. And the Justices of Peace, at their generall and speciall Sessions and other meetings, and there (upon Oath, and in writing if bee required) to make presentment, unto them of such things, and to such Articles as these. 1. If *Hue and Cry*, for apprehending of Felons have been duely made and followed, or by whom neglected. 2. If Watch and Ward have beene duely ordered and observed, and who is faulty therein. 3. If Rogues have been duely apprehended, punished, and conveyed away to their place appointed, and who is faulty therein. 4. If the Statute of Labourers bee observed, as the Rates of wages bee observed, what Ser-

vant

vants or Apprentices have put themſelves off, or are put away before their term be ended, and what is become of the Servant or Apprentice; what unmarried perſons of able bodies live out of Service, not having means otherwiſe to live then by their Service. If they work, who ſets them to work; what perſons live idly, and will not work, or not for reaſonable wages, or ſpend all at the Ale-houſe. 5. Of ſuch as lodge and harbour dangerous and ſuſpicious perſons, for whom they will not anſwer. 6. If Bakers and Brewers keep the due Aſſiſe of Bread and Beer; or that ſell unwholſome Bread or Beer. 7. Such as ſell by falſe weights or meaſures. 8 Foreſtallers, Regrators, Ingroſſers. 9. What Cauſewayes, Bridges, and High-wayes are in decay, and by whoſe means. 10. Millars. 11. They muſt alſo preſent the offences done contrary to the Statutes made for the repreſſing of Drunkenneſſe and other diſorders, and ſuch Articles as theſe. 1. What number of Ale-houſes are within their limits. 2. Which of them are licenſed, and which not, and by whom. 3. Which of them licenſed are, in regard of their perſons and dwellings, fit to ſell. 4. Who keep ill order by keeping Gaming, harbouring Rogues and Theeves, ſuffer Tipling, Drunkenneſſe, &c. ſelling by unlawfull meaſures, meaſures unſealed, or leſſe then a Quart of the beſt, and two Quarts of the ſmall for a penny. 12. Of the defaults of High-wayes not enlarged, and of Ditches, Underwoods, and Buſhes, there to cover Theeves within two hundred foot. And if they be charged, they muſt give account

to all the particulars of their office. And for any neglect or fault herein, the Justices may punish them by Indictment or otherwise, as in other like cases of neglect or contempt of them.

CHAP. III.

The Power and Duty of the High-Constable *alone, and in special and beyond the Power of the* Petit-Constable.

SECT. I.

Against Clothyers and their workmen. 4 Ed. 4. 1. Fitz. J.P. 203.

THe high-Constables office lyeth further in these things following. The Makers of Cloth shall pay to the Carders, Spinners, and other Laborers in lawful money [and not in Pins Girdles, or such other things] for their work under pain to forfeit three times so much as their wages. And they must deliver them the Wooll by due weight: And the Carders Spinners, Fullers, Dyers, Shereman, and other Labourers shall doe their work faithfully under pain to forfeit double dammages. And the Constable of the Hundred may heare and determine the complaints of every such Clothier and Draper, as well for not payment of the wages of the Labourers, as of the forfeiture and dammages by due examination of the parties

parties. And hereupon also, for non payment of the said Duties, Forfeitures, and for the Dammages, to commit the Trespassers to the next Gaol of the same County, untill the said Duties, Forfeitures, and Dammages be paid. Also they may enter into any House, Land, or other place, to search for any Tenters, Ropes, Rings, Head-wrinches, or other Engines for stretching of Cloth, and deface them: And if the owners shall afterwards use them, these officers may take and sell them, and give the money to the Poor.

SECT. 2.

Of the High-Constables *Office, in receiving, and paying of the Rates.*

1. THE Justices of the Peace, or the more part of them, at their Quarter-Sessions, may Rate every Parish within the Shire in such sums as they shall think fit, towards the relief of the poor Prisoners within the common Gaole of the County, so as it exceed not eight pence a week in every Parish; and this the Church-wardens must levy [within their parishes] on the Sundayes, and once every quarter they must pay the same to the *High-Constable*, who must also pay over the same againe at the next Quarter-Sessions of the same County, to such Collectors, living where the same Goale, as the said Justices shal there appoint to receive it; the which Collectors are to distribute the same weekely, according to the said Justices appointment, under paine of forfeiture of five pounds, by every one of these officers making default therein.

Rates for the Prisoners in the common Gaol 14 Eliz. 5.

Rates for the upper Bench and Marſhalſey. 43 *Eliz.* 2.

2. They are to receive the monies rated by the Juſtices upon the County, for the relief of the poor Priſoners in the upper-Bench and Marſhalſey quarterly, from the Chuch-wardens of the Pariſhes within their Diviſion ten dayes before the end of the quarter, and then they are, at the next quarter Seſſions, to pay over the ſame to the collectors appointed by the Juſtices, under pain of 20.s. for every default.

Rates for the Maymed Souldiers. 43 *Eliz.* 3.

3. They are alſo to receive the monies rated by the Juſtices of Peace on the County for the relief of maymed Souldiers and Mariners ten dayes before every quarter-Seſſions from the Church-wardens and Conſtables of every Pariſh within their Diviſion. And then the high-Conſtable at the ſame Seſſions muſt pay over the ſame money to any one or two of the Juſtices of the Peace, or to the Treaſurer of the County for this purpoſe, under pain of 40.s. to be forfeited for every default: but in the three laſt caſes, it ſeems the high-Conſtables doe now uſually ſend out their Warrants to the petty Conſtables and Church-wardens, to require them to bring in the monies aforeſaid.

SECT. 3.

The High-Conſtables *Power and Duty about High-wayes.*

About high-wayes. 2. & 3. *Ph. & M.* 3. 5 *Eliz.* 13.

EStreats indented, ought to be made by the Clerk of the Peace, and by the Steward of the Leet, of all forfeitures ariſing in the Seſſions of the Peace, or in the Leet upon the Statutes of high-wayes; of which Eſtreats one part ought to be delivered yeerly, within ſix weeks after *Michaelmas*, to the high-Conſtable

ſtable of the Hundred wherein the defaults were committed; and the other part to the Conſtables and Church-wardens of the Pariſh wherein the defaults were, to the end that ſuch high-Conſtable may thereby levy by diſtreſſe the ſame forfeitures, or the double thereof if no diſtreſſe can be found, or if ſuch forfeitures be not paid within twenty dayes after a lawfull demand of the ſame by the officer, and to the intent alſo that the ſaid Conſtables and Church-wardens may thereby call the ſaid high-Conſtable to an account before two Juſtices of Peace (the one being of the *Quorum*;) for the ſaid high-Conſtable is once every yeer, between the firſt day of *March* and the laſt day of *Aprill*, to make a true account and payment of all ſuch ſums of money as he hath received by means aforeſaid, to the pety-Conſtables or Church-wardens of the place where the offence is committed, or any two of them, under pain of forty ſhillings. And this if they refuſe to doe, they may be compelled unto by the Church-wardens, by the help of any two Juſtices of the Peace (the one being of the *Quorum*:) And this money is to be beſtowed by the Church-wardens on the high-wayes of the Pariſh. And upon this account the high-Conſtable is to have for his pains 8.d. for every pound he hath levyed and paid.

SECT. 4.

Of the Power and Duty of the High-Conſtable *alone, about keeping petty-Seſſions, Sea-banks in* Northfolk, *preſenting of Recuſants.*

THE high-Conſtables in all ſuch Shires where the petit Seſſions for Servants *Keeping Petit Seſſions.*

 5 *Eliz.* 4.

and Labourers (otherwise called Statu
Sessions) were used to be kept before 5 *Eliz.*
may yet still hold their Sessions; so that no
thing be done in them contrary to the Statu
of Laborers and Servants, made 5 *Eliz.*

Sea Banks in Norfolk. 29 *Eliz.* 24.

The high-Constables of Hundreds there, mu
overlook the work for amending the Sea bank
according to the order of the Justices of Pea
at Sessions.

Making Presentment of Recusants. 3 *Jac.* 4.

The high-Constable in default of t
Church-wardens and Constables of the Parish
is once a-yeer to present at the Sessions, th
names of Popish Recusants, their Children
and Servants.

CHAP. IV.

Of the office of Constables *of Town that are head officers, and have others under them, about weights & Measures, unlawful Games, Co pers, Merchandize making Mault*

Here are also in som
places Constables o
Towns or Parishes th
are head officers, and ha
others under them. An
these in some Corpora
Towns are part of th
name of their incorpora
tion. And in some places they have othe
officers

officers under them. And this officer is in some Statutes called a high-Constable. And to him doe some of the things aforesaid belong in common with other Constables, as to make a Testimoniall for a Servant; To goe into another Parish to compell an Artificer to work in the Harvest time; and some other things. And some other things there are that are said to belong to the Constable of a Town only, and to none other of the officers aforesaid, as the things hereafter mentioned, *viz.*

1. Every City, Borough, and Market Town that hath a Constable, ought also to have common measures sealed, and also common weights seal'd, at which the inhabitants may freely weigh *Weights and Measures.* 8 *H.*6.5. 11 *H.*7.4.

2. The Major, Sheriffs, Bayliffs, Constables, and other head officers within every City, Borough, and Town where any such officers be, ought, under pain of fourty shillings for every default, once every moneth at the least, to make search (as well within Liberties, as without) in all places where any unlawfull Games shall be suspected to be kept, and may arrest and imprison as well the keepers of such places as the haunters to the same, till they be bound no more to keep and haunt such places. And if any such head officer shall finde, or know, that any Artificer, Crafts-man, Husband-man, Apprentice, Labourer, Servant at Husbandry, Journy-man, or Servant of Artificer; or that any Mariner, Fisher-man, Water-man, or Serving-man doth play at the Tables, Dice, Cards, Tennice, Bowls, Closh, Coyting, Logating, or other unlawfull Game out of *Christmas* time, or out of their Masters house or presence in the *Unlawfull Games.* 13 *H.*8.9.

Christmas time, unles it be by the licenſe of ſuch Maſters as have 100.l. by the yeer or above, and then alſo that playing be within the precinct of ſuch Maſters Houſe, Garden, or Orchard, then ſuch head officer may commit ſuch offendor to Ward, till he ſhall be bound by ſuch obligation to the uſe of *The Keepers of the Liberty, &c.* in ſuch ſum, as to the diſcretion of ſuch officers ſhall be thought fit, that he ſhall not from thence-forth uſe ſuch unlawfull Games.

Coopers. 23 H.8.4.

3. In all Cities, Boroughs, and Towns wherein no wardens of *Coopers* bee, the Majors, Sheriffes, Baliffs, Conſtable, or other head officers there, have power to ſearch, view, and gauge Barrells, Kilderkins, Firkins, and other veſſells to bee made there, and to take ſuch advantage thereby and in ſuch manner as the wardens of *Coopers*, within the Citty of *London*, may take on every behalf.

Marchandize. 14 H.6.5.

4. If any Woolls, or other Merchandizes bee Shipped to the Staple in any ſuſpected place adjoyning to the Coaſt of the water, then Indentures ought thereof to bee made betweene the owner and the Major or Conſtable of that place; or otherwiſe ſuch Merchandize ſhall be forfeited.

Making of Mault. 27 Eliz. 14.

5. The Conſtable of every Borough or Market-Towne, or other Towne may view, ſearch and ſurvey all ſuch Mault as ſhall be made or put to ſale there: And if hee ſhall finde any Barly-Mault made at any time (the moneths of *June*, *July*, and *Auguſt*, only excepted) but that the ſame ſhall have the ſpace of three weekes (at the leaſt) in the

Fan

Fat, Floar, Steeping, and ſuch ſufficient Floar, Steeping, and ſuch ſufficient drying thereof and in theſe three moneths the ſpace of ſeventeen dayes at the leaſt. And if he finde any Perſon to put to ſale any good Mault mingled with Mault not ſufficiently made, or with Mault made of Mow-burned or ſpired Barley; or put to ſale any Maule not ſufficiently well trodden, rubbed, and fanned, whereby halfe a peck or more of duſt may bee fanned out of one quarter thereof: then may ſuch *Conſtable* (with the advice of one Juſtice of the Peace in that Shire) cauſe the ſame Mault to bee ſold to ſuch Perſons and at ſuch reaſonable prices (under the common price of the Market) as to his diſcretion ſhall ſeeme expedient.

All theſe things laſt aforeſaid appertaine only to the head *Conſtable* of Market and great Townes, and as it ſeems the *High-Conſtables* of hundreds, and petty *Conſtables*, and *Tything-men* of Pariſhes and Tythings, have no power nor charge at all therein. And yet beware of this, for perhaps they may be otherwiſe taken.

It is ſaid upon the Statute of 7 *Jac.* 3. for the imployment of money given for the binding of Apprentices. The Statute of 3 *Jac.* 12. againſt the deſtroying of Fiſh. The Statute of 1 *Jac.* 4. for the preſenting of Recuſants. The Statute of 1 *Jac.* 21. againſt them that are infected of the Plague. The Statute of 1 *Jac.* 29. againſt them that dreſſe meat in the Lent and ſome others; that upon theſe Statutes, *Borſholders*, *Tything-men* Head-

Head-borowes, and such like officers being in Townes or Parishes (underneath *Constables* that be there) have not to doe nor may meddle, because such *Constables* be in comparison of them called head officers; But where no such head officers are, nor any officers in the place that are called by the names of *Constables*, but that they are called *Tything-men*, *Chiefe Pledges*, *Borsholders*, or by some other name there, out of doubt these officers are intended by the word *Constable*, within the Statutes, and they have the same authority and charge by the same Statutes as the *Constables* have.

THE

THE TABLE.

A

Account.

WHere Constables, and such like Officers, are bound to Account. Chap. 2. sect. 1. num. 19. 21.

Adultery. *See Bawdrie.*

Affrayes.

What Constables, and others, may and ought to doe, to prevent and allay an Affray. Chap. 2. sect. 1. numb. 5. 6. 7. chap. 2. sect. 2. numb. 1. 5. 6.

Ayd.

What Aid Constables may require of other men in the execution of their Offices: And what Aid such men are bound to yield them. Chap. 2. sect. 1. numb.

numb.9.chap.2.sect.2.num.4.6.10.
Allowances. *See Account.*

Arrest.

What Arrest is : And where it is lawfull. Chap.2.sect.1. *Numb.*6.11.18.
ch.2.sect.2.n.3.4.8.12.13.15.16.

B

Bawdrie.

How it is to be punished. Chap.2.sect.3.
numb.1.chap.2.sect.5.

C

Constables.

What these Officers are : And who may be chosen therennto : And how. Chap.1. sect.1. *And their Oath.* Chap.1.sect.2.
Their Office and Duty about the Peace, and in case of Affrayes. Cha.2.sect.1.
num.5.6.7. chap.2.sect.nu.2.1.5.6.
About Felons. Chap.2.sect.1.numb.6.
chap.

chap. 2. ſect. 2. numb. 1. 2. 8. 9.
About Adulterers: chap. 2. ſect. 2. numb. 1.
About them that threaten Murder: chap. 2. ſect. 2. numb. 5. *Or attempt to Rob*: chap. 2. ſect. 2. numb. 13.
About Night-walkers: chap. 2. ſect. 1. numb. 6. chap. 2. ſect. 2. numb. 2.
About them that make Inſurrections, Ryots: chap. 2. ſect. 2. numb. 4.
About an Inn-keeper refuſing to receive a Traveller: chap. 2. ſect. 9.
About Swearers: chap. 2. ſect. 4.
About Purveyors: chap. 2. ſect. 11.
About the Prophaners of the Lords Day: chap. 2. ſect. 3.
About Clothiers: chap. 2. ſect. 16. numb. 3. chap. 3. ſect. 1.
About Ale-houſe-keepers, Drunkards, &c. chap. 2. ſect. 9.
About him that doth diſturb a Miniſter in Preaching: chap. 2. ſect. 10. n. 4.
About Stage-Players: chap. 2. ſect. 10. numb. 2.
About a Rogue: chap. 2. ſect. 6.
About Hue and Cry: c. 2. ſ. 2. n. 10. 13.
About Servants departing out of their Maſters Service without a Teſtimoniall:

niall: chap.2.ſect.10.numb.5.
About May-Poles: chap. 2. ſect. 10. numb. 1.
About Recuſants: chap.2. ſect. 11.
About Maltſters: chap. 2. ſect. 10. numb. 10.
About them that dreſſe meat in Lent: chap.2.ſect.11.
About Hedg-breakers: chap. 2. ſect. 10.numb.9.
About Labourers that will not work: chap.2.ſect.10.numb.3.
About ſuſpicious perſons: chap.2.ſect. 2. numb.1.8.9.14.15. chap.2.ſect.6. numb.4.ſect.7.
About Watch and Ward: chap.2.ſect. 2.numb.2.
About Rates: chap.2. ſect.8. chap.3. ſect.2.
About an Abjured perſon: chap.2. ſect.11.
About takers of Pheaſants: chap.2. ſect.11.
About High-wayes: chap.2. ſect.10. numb.7.chap.3.ſect.3.
About them that have the Plague: chap.2.ſect.10.numb.8.
About taking Fiſh: chap.2.ſect.11.

About a Preſentment: chap.2.ſect.12.
About carrying of a Priſoner to Gaole: chap.2.ſect.2.numb.5.6.7.10.13.15. ſect.6.numb.8.
About the receiving, and paying of money: chap.2.ſect.8.
About the Petit-Seſſions: chap.2.ſect.7. numb.4.
About the execution of the Precepts of others: chap.2.ſect.1.numb.17.chap. 2.ſect.2.numb.14.
Where theſe Officers may juſtifie the breaking open of a houſe:chap.2.ſect.1. numb.10.chap.2.ſect.2.numb.10.
Where theſe Officers may arreſt a man out of their own Precinct: chap.2.ſect. 1.numb.11.chap.2.ſect.2.numb.8.
Where theſe Officers may juſtifie the beating of a man, or the wounding, or killing of a man, in the execution of their Office: chap.2.ſect.1.numb.14. chap.2.ſect.2.numb.15.6.5.11.
Where theſe Officers may arreſt the body of another:chap.2.ſect.1.numb.6.11. 18.chap.2.ſect.2.numb.12.
Where they may ſearch; *And how*: chap.2. ſect.2. numb. 9. 11. 14. 15. ſect.1.numb.6.11.18.

In

The Table.

In what place theſe Officers may impriſo
a man : chap. 2. ſect. 1. numb. 14.
Where they may ſeize Goods : chap. 2.
ſect. 2. numb. 11. ſect. 3. ſect. 7. chap. 2.
ſect. 2. numb. 4.
In what caſe theſe Officers may put a
man in the Stocks, Pinion or Fetter a
man : chap. 2. ſect. 1. numb. 11. 12. 13.
Where they may let a Priſoner goe :
chap. 2. ſect. 1. numb. 10.
What account they muſt make, and what
allowances they ſhall have : chap. 2.
ſect. 1. numb. 19. 20. 21.
The Office of Conſtables of Towns : ch. 4.

Cuſtome.

What cuſtome or preſcription in choyſe
of this Officer is good : chap. 1. ſect. 2.

FINIS.

THE OFFICE & DUTY OF Church-wardens, Over-seers of the Poor, Supravisors of the High-wayes, Governor of the House of Correction.

AS ALSO

The Treasurers of the Maimed Soldiers, the Prisoners in the *Kings Bench* and *Marshalsey*, and the Prisoners in the Common Gaol.

The Second Part.

By *William Sheppard* Esq;

London, Printed for *Edw. Dod*, and *Nath. Ekins*; and are to be sold at the *Gun* in *Ivy-lane*, 1652.

CHAP. I.

Of *Church-wardens* and their Office.

CHurch-wardens are Officers choſen yeerly by the Major part of the Pariſhioners, according to the cuſtom of the place, to look to the Church and Churchyard, and things thereunto belonging. Theſe now by the new Ordinance of the Ninth of *February*, 1647. where they have been uſed to be, are to be choſen every yeer on the Monday or Teuſday in the *Eaſter* week, by the Major part of the Pariſh, at a publike meeting; And they may chuſe one, two, three or four, as they pleaſe. And if the Pariſh doe omit this Election, it looſeth forty ſhillings to the uſe of the poor of the Pariſh. This choice alſo muſt be allowed under the Hands and Seals of two of the next Juſtices of Peace. And being thus choſen they are to continue in their Office but one yeer, and

Numb. 1. What they are and how they are choſen.

CHAP. I.

and no longer, except there be a Cuſtom for longer time, and except they be choſen again in the ſame maner at the yeers end, otherwiſe they are to be changed every yeer. And in caſe of miſcarriage in their Office, they are to be put out, and others choſen within the yeer. And albeit there be a Cuſtome within the Pariſh, that the Church-wardens ſhall continue in their Office by the ſpace of one yeer, two yeers, or more, (as in ſome places there is) yet in caſe of miſdemeanor found in them, about the execution of their Office, the Pariſhioners may at any time proceed to a new Election of new, and remove the old Church-wardens; for there is no other remedy againſt this Evil. In the choiſe of theſe Officers care muſt be had, as in the choiſe of Conſtables, that there be none but honeſt and able men choſen to the Office.

Numb. 2. Their Office and Duty.

For the diſcovery of the Office, and duty of theſe Officers; theſe things are to be known. 1. That for ſome things belonging to their Office they have a power and Office therein by the ancient Common Law: And for other things belonging to their Office, they have a Power and duty therein, by certain Acts of Parliament newly made, by which their Office is enlarged. And for this laſt alſo, ſomethings hereof do concern the Church, and Church matters. Other things do concern other matters. Some things alſo they may do *Ex Officio*, and without any warrant from others. Other things they may do onely by warrant from others.

others. We shall speak first to the matter concerning the Church. CHAP. I.

2. By the ancient Common Law, the Office of the Church-wardens doth ly in these things. 1. They are to see too, and preserve the Goods of the Church, (*viz.*) the Books, Communion Cups, Linnen cloaths, and other decent Ornaments and Furniture of the Church which they do finde there, when they enter into their Office. And if there be any lack in these things, they are to see and provide them, and being provided, preserve and keep them also. And for this purpose (in favour of the Church) the better to enable them herein, the Law doth make of them a kind of Corporation (*viz.*) persons enabled by that name to take moveable Goods or Chattels, and to sue and to be sued at Law concerning such goods, for the use and profit of their Parish. For the property of the goods of the Church is in them, and they are by that name enabled to take them, and to be sued for them, for the use and profit of the Parish. And therefore these Officers may have and enjoy goods to the use of the Church. And a man may well, in his life time, or by his last will, give or grant money or other moveable things to the Church-wardens, or to the Parishioners of a Parish, for the Reparations of a Church, or for the buying of Books, Communion Cups, Linnen clothes, or other decent Ornaments or furniture for the Church. And this kind of Gift is so much favored in Law, that it is not needful therein to have any

Numb. 1. In providing and keeping the Church goods.

Corporation.

CHAP. I.

writing or words at all. For if a man do but buy a Bell and hang it up in the Steeple, or make a Pew, and ſet it up in the Church, and do make no words, or writing hereof; by this the Bell and the Pew, are ſo dedicated, and given to the Church, that the party that did owe them, can never have them again. And if any Goods or Chattels be deviſed to the Church, and be kept from it, the Church-wardens may by Suit recover it in a Court of Equity. But they can have no Action by the Common Law, to recover any ſuch thing given, of the which they never had the poſſeſſion: But if the Church-wardens be once poſſeſſed of any Goods or Ornaments belonging to the Church, and afterwards the ſame things be taken from them; they ſhall have the ſame remedie for theſe things, as other men have for their Goods taken from them; And therefore if ſuch Goods be ſtollen, the Church-wardens may have an Appeal of Robbery againſt the taker of them. And if they be otherwiſe taken away, or abuſed, as if a Bell be broken, or the like, the Church-wardens may have an Action againſt him that doth it, albeit he be the Parſon or Vicar himſelf. And in this Action, they ſhall recover damages to the uſe and benefit of the Pariſh, and not to their own uſe. And yet theſe Officers have no ſuch property in the Goods of the Pariſh, as thereby to have power to give, ſell, releaſe, hurt, or impair them, for they are Officers truſted for the behalf of the Pariſh; and therefore have no power in the Goods

Actions by, or againſt them.

Goods of the Pariſh, but for the good and profit of the Pariſh. And therefore if they ſhall ſo do, or otherwiſe unprofitably waſte or miſimploy the Goods of the Pariſh, the Pariſhioners may remove him, and chuſe another, although it be before his yeer be expired. Alſo, it ſeems the Party that doth ſteal or take away any Goods belonging to the Church, may be puniſhed for it, as for a Sacrilegious offence. And if theſe Church-wardens, from the goods be taken, dye, or be out of their Office; their ſucceſſors (as ſome thinks) may ſue for and recover them, or the damages for them: Or if theſe Church-wardens may not, the old Church-wardens may ſue for, and recover the ſame. And if any thing have been uſed time out of mind, to be paid towards the Church, and it be now withheld, the Church-wardens may ſue for the ſame in a Court of Equity. But as touching any Eſtate of Lands, or the profits of any Lands, the Church-wardens are not to medle at all; inſomuch, That if the Walls, Windows, or Doors of the Church be broken down, or the Trees in the Church-yard cut down, or the Graſs thereof be eaten up; the Parſon or Vicar, not the Church-wardens ſhall have an Action for it; for they are a Corporation onely as to moveable Goods. And therefore they cannot take Eſtates of Lands to them, by name of Church-wardens, onely in Fee-ſimple, for life or yeers, to the uſe of the Church. And if a Feoffment be made of any Land to others, to the uſe of Pariſhioners, or to the

CHAP. I. Use.

use of the Church-wardens of a Parish: this is a void use in Law, and they shall take nothing by this Conveyance. 37. *H.* 6. 30. 11. *H.* 4. 12. 8. *Ed.* 4. 6. *F. N. B.* 91. 11. *H.* 7. 27. 12. *H.* 7. 10. *F. N. B.* 52. 54.

Numb. 4. In making of Reparations.

2. These Officers are bound by the very Common Law, to take care, and look to the Body of the Church and the Tower, that the same be sufficiently repaired, kept and maintained; and that if any of the necessary Ornaments therein apointed for the worship of God, be decayed, that they be repaired again; for there must be always in a readiness, all things necessary to the preaching of the Word and Administration of the Sacraments. And they are to see that their Bells be in case, and fit for use. But if the Chancel, (the which in most, if not in all places, is to be repaired by the Parson) or any Isle in the Church, the which any man doth claim by Prescription to himself, or his house in particular be in decay, the Church-wardens are not bound to repaire this. And now by the new Ordinance of Parliament they may raise money, not to build a new Church quite down, nor to repaire a Cathedral or Collegiate Church, but they may raise money to maintain or repaire a Parochial Church, provide Books, Bread and Wine for the Sacrament, repaire the Inclosures of the Church-yard, or burying place, and to all other things that do belong to their Office. And further, they must make such reparations as any Justice of

Bread and Wine.

of Peace ſhall under his Hand and Seal appoint about any part of the Church. CHAP. I.

3. Theſe Officers (as it ſeems) by the Common Law are to order the Seats in the Church, and to appoint every man and woman where they ſhall ſit. And yet if any man have an Iſle, or a ſeat in an Iſle, or by-place out of the body of the Church, unto which he may make a right by Preſcription, as that which time out of mind hath belonged or appertained unto his houſe; in this caſe, neither the Church-wardens nor any other can turn him out of it. And albeit one may not preſcribe to have a Seat in the body of the Church, as belonging to his houſe, yet if the caſe be ſo, that a man hath time out of mind had ſuch a Seat or Seat-place in the body of a Church, as appertaining to his houſe; in this caſe the Church-wardens ought not without very good cauſe to remove him. 12. *H.* 7. 27. *Numb.* 5. In Diſpoſing of Seats.

4. Theſe Officers alſo may by the very Common Law, to enable themſelves for the execution of their Office in the Particulars aforeſaid, may ſet Rates and Taxes upon the Pariſhioners for the payment of money. And as touching this point, and to ſhew how the Law is at this day upon the new Ordinance, theſe things are to be known. 1. Theſe Officers with the Over-ſeers of the Poor of the Pariſh, or the greater part of them together, muſt now make theſe Rates; for if they be otherwiſe made, there is no means to recover them. 2. Theſe Rates may be made before there be preſent need, as before *Numb.* 6. In making and levying of Rates.

CHAP. I. before the Church fall, or be in danger of ruine, or the like. 3. Theſe Officers may by theſe Rates raiſe Money for the buying of Books, providing of Bread and Wine, repairing of the Church-yard or Burying place; for the *Kings Bench*, and *Marſhalſey*, and other Payments. And ſo alſo, as it ſeems, for the repair of the Church, the Tower, and the Bells. 4. For this, they may Rate every Inhabitant and Occupier of Lands, Tithes, Impropriate, Woods, or other Hereditaments within the Pariſh. 5. The Church-wardens muſt give publike notice in the Church, when and where the Rate is to be made. Howbeit, If the Pariſhioners after ſuch notice given, will not come, or coming, will not agree to the Rate; in this caſe the Church-wardens and Over-ſeers of the poor alone, or the major part of them, may make the Rate: But a Rate made now without giving notice thereof before hand to the Pariſh, is not good. 6. This Rate muſt be equal, and for this cauſe, It muſt be upon every Pariſhioner, and not upon ſome of the Pariſhioners onely; and it muſt be ſet upon every one of them equally, (*viz.*) According to the quantity and quality of his Eſtate and Lands within the Pariſh, wherein they may Rate by the Yard, Acre, or otherwiſe, as they think fit; ſo as it be equal and according to the true value, by an equal proportion. And if one of another Pariſh have Lands in the Pariſh where the Rate is made, in his own occupation; in this caſe they may Rate him to Church Payments, accord-

ing

ing to the value of his Land. And this, Albeit there be no houſe upon it, and albeit the Owner and Occupier dwell in another Pariſh; for as to this purpoſe he ſhall be called a Pariſhioner; and therefore he may if he pleaſe come unto, and frequent the Church of that Pariſh, as he doth the Church of the Pariſh wherein he lives. And where the Land-lord and Tenant both do live out of the Pariſh, it ſeems, the Church-wardens may Rate either of them at their Election. And yet ſome hold, That in theſe and ſuch like caſes, the Rate muſt be always ſet upon the Occupier of the Land, and not upon the Land-lord. And if the Farmer or Occupier of the Land do live within the Pariſh, where the Rate is made, there he onely, and not the Land-lord, ſhall be rated; And the Tenant is to be rated for the whole value of the Land; and therefore the Land-lord is not to be rated again for the Rent he doth receive out of the Land; for then the Land would be twice rated: And in this caſe there is a Pariſhioner and Inhabitant chargable. And Receipt of Rent out of a Pariſh for Land within the Pariſh, by a man that lives in another Pariſh, will not make him a Pariſhioner. And yet, In caſe where the Land-lord and Tenant both live within the Pariſh where the Rate is made, there the Raters may ſet the Rate upon which of them they pleaſe; yet ſo as they be not both rated for the ſame thing: But a man that doth neither dwell within the Pariſh, nor hath any Land within the Pariſh, cannot be rated

Pariſhioner.

at

CHAP. I. at all towards the Church Payments. And therefore, If a Butcher come thither, it being a Market Town, to ſell Meat, and have a fixed Stall there; this will not make him a Pariſhioner, nor chargable to the Church.

Numb. 7. 7. After the Rate is thus made by the Church-wardens and Over-ſeers of the poor, it muſt be put in writing, and the Hands of the Church-wardens and Over-ſeers of the poor, and of the Pariſhioners that are agreeing to it, it will be good to have annexed to it. But this is not neceſſary; for a Rate may be good without any Hands ſubſcribed, if it be duly made. 8. The Rate thus made by them, muſt be confirmed by the two next Juſtices of Peace. 9. If any one refuſe to pay them, being thus made, upon demand, The preſent or ſubſequent Church-warden, may by Warrant under the Hands and Seals of the two next Juſtices of Peace, levy them, and all the arrears thereof; and Two ſhillings ſix pence for the neglect upon the Goods of the party appointed to pay it.

Over-rate. 10. If any be grieved with the Rate, relief is to be had before the Juſtices of Peace, at their Quarter Seſſions.

5. Theſe Officers are to relieve, and diſpoſe of the Rents of Lands or Annuities given towards repair of Churches and Church duties, according to the intent of the *Donor*.

Numb. 8. In delivering over the Church goods, and making an Accompt. 6. The next thing theſe Officers by the Common Law, are bound to do, is, When they are going out of their Office, they are truly to deliver up to the Pariſhioners whatſoever

whatſoever Money or other things of right, belonging to the Church or Pariſh, they have in their hands; and it is the beſt way to deliver them by Bill Indented to the ſucceeding Church-wardens.

7. The laſt thing theſe Officers are bound by the Common Law to do, is, To give up a true and perfect Accompt of all their Receipts and Diſburſements in the time of their Office: The which, it is beſt to do to the ſucceeding Church-wardens. And this if theſe Officers refuſe to do, their ſucceeding Church-wardens may now compel them to, by an Action of Accompt at the Common Law. But now by the new Ordinance, they are bound within Four days of their Office ended, and new Church-wardens choſen, to give an Accompt to their Succeſſors and the two next Juſtices of Peace, and to pay over the Money, in their Hands, to their Succeſſors. And refuſing this, they are to be committed without Bail, till they do Accompt, and pay the Moneys in their Hands. And by this Writ of Accompt, at the Common Law, the preſent Church-wardens may compel their Predeceſſors to give an Accompt of, and to anſwer for their doings, during the time of their Office: And if they have done the Pariſh any wrong, to make amends and ſatisfaction for the ſame, to the uſe of the Pariſh, for the harm it hath received by their default. And in this Accompt, the old Officers ſhall have Allowances for all the needful ſums of Money laid out, or ſpent by them, either upon

Allowances.

CHAP. I. upon the Reparations of the Body of the Church, Tower, or Bells; or for releif of the Priſoners in the Goal, or otherwiſe where the Law doth enjoyn them to pay or diſburſe them.

And now having diſpatcht the Duty and Power of theſe Officers, commanded, and given to them, eſpecially by the ancient Common Law; we come to ſee wherein their Office is enlarged by ſome Acts of Parliament: And this we ſhall finde to be in theſe particulars following.

Numb. 9. In making and levying of Rates and Forfeitures, *&c.*

Firſt. We have ſhewed before, how by the late Ordinance of Parliament, theſe Officers may without warrant, *Ex Officio*, make and ſet Rates; and that by Warrant under the Seals and Hands of two Juſtices of Peace, they may levy the ſame, and the arrears thereof, and Two ſhillings ſix pence by Diſtreſs and ſale of Goods. And that they may, and muſt alſo execute the Warrants of the Juſtices of Peace, in levying all the penalties appointed for any offence within that Ordinance of Parliament; and alſo, in levying of all ſuch Money as ſhall be remaining in the hands of any of their Predeceſſors upon their Accompt, by Diſtreſs and ſale of Goods.

Numb. 10. Inimployment of Money given to charitable uſes.

Secondly. Theſe Officers are to joyn with the Over-ſeers of the poor, and ſome others, in the imployment of Money given for the binding of Apprentices, upon the Statute of 7 *Jac.* 3.

Againſt prophaners of the Lords day.

Thirdly. Any one of theſe Officers may upon ſight and knowledge of any offence done

alone againſt any Law made for the Obſervation of the Lords day, days of Humiliation, or Thankſgiving, do the ſame execution as Over-ſeers of the poor may do.

Againſt May-poles.

Fourthly. Theſe Officers together with the Conſtable, may take down a May-pole: And either of theſe Officers, by Warrant from a Juſtice of Peace, muſt levy the forfeiture appointed to be paid, for the ſetting and keeping up of a May-pole. *Ord. April* 6. 1644.

Againſt Stage-plays.

Fifthly. Theſe Officers alone may levy the forfeiture appointed to be paid by ſuch as are preſent at Stage-plays. And theſe Officers, and the Conſtables together, may levy all the Money Collected of the Comers to it, to the uſe of the poor. *Ord. Feb.* 11. 1647.

Againſt Superſtitious Reliques.

Sixthly. They muſt, being commanded by any Juſtice of Peace, take care with the Over-ſeers of the poor, to take down and demoliſh all Superſtitious Reliques at the charge. And the Church-wardens being required by the Juſtice of Peace, muſt repair it as before, at the Pariſh charge. *Ord. May.* 1644.

Numb. 11. Againſt Swearers.

Seventhly. Theſe Officers may apprehend Swearers, and bring them to a Juſtice of Peace to be puniſhed, as Over-ſeers of the poor may do.

Againſt him that diſturbeth a Miniſter or abuſeth the Sacrament.

Eightly. If any of his own Authority ſhall willingly, and of purpoſe, by open and overt word or deed, maliciouſly or contemptuouſly moleſt, or by any other unlawful ways, diſquiet or abuſe any Preacher lawfully

CHAP. I.

fully Authorized in his Preaching or Divine Service; or otherwiſe contemptuouſly, of his own authority abuſe, deface; otherwiſe unreverently handle, or order the Sacrament of the Body and Blood of Chriſt in any Church or Chappel: Such perſons their Aiders and Abettors, may immediately after the thing done, may be forthwith arreſted by the Conſtable, theſe Officers, or any other perſon then preſent, and carried to a Juſtice of Peace, to be proceeded againſt according to the Statute. *Stat.* 1. *M.* Chap. 6.

Againſt them that eat Meat on Faſting-days.

Ninethly. If any one do without lawful Licenſe, eat any Fleſh upon any days, now obſerved for Fiſh days [the which (as it ſeems) are Fridays and Saterdays in every week in the yeer, but in *Chriſtmas* and *Eaſter* week, and the Four Wedneſdays in the Four *Ember* weeks] he doth forfeit Twenty ſhillings for every time, and one Moneths impriſonment without Bail or Mainprize. And every perſon, in whoſe Houſe the ſame ſhall be eaten, knowing thereof, and not diſcloſing it to ſome Officer that hath power to puniſh it, ſhall forfeit for every ſuch offence Thirteen ſhillings four pence; and one third part thereof, is to go to the poor of the Pariſh where the offence is done, to be levied by the Church-wardens of the place, by Warrant from the Juſtices of Peace, *&c.* So that by this Statute, if any ſuch Warrant be directed to theſe Officers, they are to execute the ſame. *Stat.* 5. *Eliz.* 5. 27. *Eliz.* 11. 35. *Eliz. Chap.* 7. And

the Licenſe to be given for eating of Fleſh to any perſon for notorious Sickneſs, by the Miniſter of the place, muſt be Regiſtred (if the Sickneſs continue above Eight dayes after the Licenſe granted) in the Church Book. And this muſt be done, by the knowledge of one of the Church-wardens there.

Tenthly. Theſe Officers are to joyn with the Overſeers of the poor, in the Execution of their Office throughout; for they have an equal Authority and Charge with them in the Execution of the whole Office; Nay theſe in truth are the principal Officers in this Office, and the Overſeers are but Aſſiſtants to them; For ſo are the words of the Law, That they ſhall be joyned with the Church-wardens, *&c.* *Numb.* 12. About the poor.

Eleventhly. If any Forfeiture be by any offence, about killing Hares, Pheſants, or Partridges, and the Juſtices of Peace force the payment thereof to theſe Officers, they are to receive the Money, and ſee it imployed to the uſe of the poor of the Pariſh. *Stat.* 1 *Jac.* Ch. 27. About killing of Hares, Pheſants, *&c.*

Twelfthly. Theſe Officers are to joyn with the Conſtables of the place, to Rate the whole Pariſh towards the payment of the County Rate of the Juſtices of Peace, for the releiſe of the Priſoners in the *Kings Bench*, and *Marſhalſey*. And being Rated, to pay the ſame to the High Conſtable of the Hundred once every quarter, under pain to forfeit Ten Shillings for every default. 43. *Eliz.* In levying Money upon Rates, for the Priſoners in the *Kings Bench*, and *Marſhalſey*.

Thirteenthly. They are alſo to joyn with

CHAP. I.

the Constables, to Rate the whole Parish towards the payment of the Justices Rate, for the County; for the relief of the poor Mariners, and Maimed Soldiers. And to collect and pay the same to the High Constable Ten dayes before every Quarter Sessions: under pain to forfeit Twenty Shillings, for every default. 43. *Eliz.*

For marriners and maimed Soldiers.

Fourteenthly. These Officers alone are to Rate and Levy the County Rate, made by the Justices, for the releif of the Prisoners in the Common Gaol, and to pay the same quarterly to the High Constable of the same Hundred, under pain of Five pounds; And this Money, if the Church-wardens do pay before they do Collect it, it shall be allowed them again upon their Accompt.

For the Prisoners in the Gaol.

Fifteenthly. Where an Offender that is committed to Prison, hath not Goods sufficient to defray the Charges of Conducting him thither; The Constables and Church-wardens, and two or three of the Parishioners, may make an indifferent Rate for the same. And any one of these Officers, by warrant from the Justice of Peace, that did commit the Offender, may Levy the same Rate on the Parishioners Goods.

To carry a prisoner to Gaol.

Sixteenthly. These Officers are upon a warrant sent to them, from any that have Power, to Levy the Forfeitures for the breach of any of the Laws, touching Drunkards and Drunkenness: And they are then also to see that they do imploy the same, to the use of the poor of the place.

Numb. 13 Against Drunkards.

Seventeenthly. These Officers are to joyn

Against them that destroy Fish.

joyn with the Constables; to execute warrants for the Levying of the Forfeitures, against them that destroy Fish, *&c.*

CHAP. I.

To choose Surveyors for the High-wayes.

Eighteenthly. They are also to joyn with the Constables in the chusing of Supravisors for the High-wayes; and in the setting down of dayes for the work; and in the oversight of the High Constables Accompt, for the Moneys they do receive by any Forfeiture. They may also with the help of two Justices of Peace, *Quorum Unus*, force High Constables that have received any Money Forfeited for defaults of High-wayes, to accompt for it; and pay in what is in their hands, to be imployed about the High-wayes.

Force high Constables to accompt

About a Rogue.

Ninteenthly. If a Rogue be brought and tendred to these Officers, they must receive him, or else they Forfeit five pounds. *Stat.* 39. *Eliz.*

About Presentment.

Twentiethly, 1. These Officers being required, must attend the Justices of Peace, and with the Overseers of the Poor; give to the Justices an Accompt of what stock of Money hath been raised by Rates, or is otherwise serled amongst them, and how they are imployed; and what Apprentices are placed, or fit to be placed; and of the rest of the things concerning their Office. 2. They must also present upon their Oaths, all Offences that are done within their Parish: against the Statutes made for the suppressing of Drunkenness, and other disorders of Alehouses. 3. They are to joyn with the Constable in presenting of Popish Recusants,

CHAP. II.

Of the *Over-ſeers* of the Poor, and their Office.

Numb. 1. What they are, and how they are choſen

THE Over-ſeers of the Poor, are certain Officers appointed yeerly to be joyned and aſſiſtant to the Church-wardens of the Pariſh, in the overſight and ordering of the Poor of the Pariſh. And they are to be choſen, and made by two or more of the Juſtices of Peace of the County, (whereof one of them muſt be of the *Quorum*) dwelling in or neer the Pariſh or Diviſion, *&c.* Who are yeerly under their Hands and Seals; at *Eaſter*, or within a Moneth after to appoint four, three, or two, Subſtantial Houſholders (according to the greatneſs of the Pariſh) to be joyned with the Church-wardens of the Pariſh; And all theſe together are to look to the poor of the Pariſh. *Stat.* 43 *Eliz.* chap. 2. 3. 1 *Jac.* chap. 25. 3 *Car.* 1.

For

CHAP. 2.

Numb. 2. Their Office and Duty.

For the diſcovery of the Power and Duty of theſe Officers: theſe things are to be known. 1. Some things they are to do in their Office; they are to do it, and may do it *Ex Officio*, without any Warrant from any other. And ſome things they may do, onely by Warrant from others; And ſome of theſe things concern the poor; And ſome of them do concern other matters. As to the firſt of theſe, we are to know theſe things. 1. That in this Office, the Church-wardens of the place, have an equal Authority and Charge, with the Over-ſeers of the poor; And therefore howſoever, it be the common courſe in moſt places, for the Church-wardens to neglect it altogether, and not to meddle at all with it: yet it is a common neglect puniſhable, upon the Church-wardens, and fit to be redreſſed. But if there be but one Church-warden within the Pariſh, this doth ſuffice; and the Over-ſeers of the poor, and this Church-warden together, may execute the Office well enough. 2. The Major part of them without the reſt, may do any thing belonging to their Office. 3. They muſt have the conſent of two Juſtices of the Peace, (one of which muſt be of the *Quorum*) either in General or in Particular, to every thing they do in their Office: And yet it ſeems, they may ſet up and uſe a Trade, by the conſent of one Juſtice of Peace, where there are not two Juſtices within the Limits; Nor is this conſent otherwiſe neceſſary, then as herein is after ſet forth.

CHAP. 2.

Numb. 3. In setting the poor on work.

4. The Office of these men, lieth in these things. 1. In general: They are to take order with the consent of two Justices of Peace, (one of the *Quorum*) to set their poor awork, and if need be, for that purpose to set up a Trade, place out their Apprentices, relieve the impotent, and such as cannot work, or cannot live by their work. But more particularly; 2. They with the consent of two, or more Justices, may set up and use any Trade, onely for the setting a work, and relief of the poor of their own Parish, without breach of any Statute. 3. They are to set to work, the Children of such, whose Parents shall not by them be thought able to keep and maintain their Children, and such persons Married and unmarried, as having no meanes to maintain themselves, use no ordinary and daily Trade of life to get their living by; and all those that cannot get work elsewhere: And if any person so appointed by them to work, shall refuse so to do, or any others that are able, if they refuse to work for the wages assessed, he may be sent by any Justice of Peace to the Common Gaol, or House of Correction; not to their place of Birth, or last dwelling.

Numb. 4. In binding Apprentices.

2. The more part of them, with the consent of the Justices as aforesaid, may and ought to bind forth and place to be Apprentices, the Children of such, whose Parents they judge unable to maintain their Children; But they may not binde any other mens Children so: And they unto whom they

CHAP. 2.

they are so bound, may and must receive them, and keep them as Apprentices: In which perticular, these things are to be known. 1. Two Justices must be agreeing to what they do herein. 2. So they do binde them to Weavers, Masons, or any such like Trade; or they may binde them to Husbandry, or Houswifery. 3. It is said they may binde any above Seven, and under Thirteen yeers; And the Man-childe may be bound until he be of the age of Twenty four yeers, and the Woman-childe until she come to the age of One and twenty yeers, or be Married. 4. These Officers may with the Justice of Peace, help compel any man within the Parish, that they think fit, to take such a poor Childe to be his Apprentice, and that without any Money at all; howbeit in this case, it is meet that some respect be had; for if the Childe be yong, and the party to whom they would place it be not very able; they may give him Money if they will: And it is fit that some Money be given, as the Over-seers and Party can agree. And if they cannot agree, as the next Justices of Peace, or the Justices of Peace at the Sessions shall set down. *And this hath been the Resolution of the Judges.* 5. All men that have, or may have use for Servants, are bound to receive such Apprentices themselves, or contribute towards the placing of them with others. And albeit a man be not a Tradesman but a *Knight*, *Gentleman*, *Clergyman*, or *Yeoman*; and albeit he do not keep house, but be a Sojourner, if he use Husban-

CHAP. 2. dry, Clothing, Graſing, or the like: or how-ſoever his caſe be, if by his Calling and Profeſſion, he muſt entertain and uſe Servants of like quality; he may be compelled to take ſuch an Apprentice. Reſolved by the Judges. 6. If a wealthy man live ſo privately, that he keep few or no Servants, and leadeth ſuch a life, that he hath no need of ſuch a Servant; yet he may be compelled to take ſuch an Apprentice himſelf, or to give Money towards the placing of him with ſome other. And this notwithſtanding, they Rates. muſt bear their ordinary Rates to the poor, as other men do. Reſolved by the Judges. 7. If there be not Maſters enough within the ſame Pariſh, to entertain the poor Children there, the Juſtices of Peace may compel men of other Pariſhes, within the ſame Hundred, to take them; And if there be not enough within the Hundred, the Juſtices of the Peace, at their Seſſions, may compel them of any other Pariſhes, within the County, to take them. Reſolved by the Judges. 8. Theſe Apprentices may be bound to a man, either in regard of his ability, or in regard of his Farm. And in the laſt caſe it ſeems reaſonable that he go with the Farm. 9. This binding Indenture. muſt be by Indenture, or it is not good. 10. The Indentures thus made by the Church-wardens & Over-ſeers of the poor, with the allowance of the Juſtices, & this binding by them, are as effectual to all purpoſes, as if the Children were of full age and did bind themſelves by Indentures. 11. All ſuch as are ſo bound according to 43. *Eliz.* may be ſafely

received

received as Apprentices. 12 *Car.* 4. If any man refuse to accept of an Apprentice, being thus placed to him, he is by the Justices of Peace, to be bound to appear at the next Sessions, or Gaol-delivery; And if he refuse so to do, he is to be sent to the Gaol, till he do so. And if he be bound to appear at the Sessions, and do appear, and then refuse (without a sufficient excuse to be allowed by the Justices of Peace) he is by them to be bound to the good behaviour; or if he refuse so to do, to be imprisoned till he so do; And he may also be Indicted, and Fined for his Contempt. Resolved by the Judges. 13. If a special Rate be set on any man to help place a poor Childe Apprentice, it may be levied upon his goods as other Rates are levied. Resolved by the Judges. 14. If the Parents of such poor Children, refuse to let their Children go to be Apprentices, or intice them away, being bound; the Parents themselves may be sent to the house of Correction.

Numb. 5. In releiving the poor. And what poor they are to releive.

3. The next main part of their Office is, to give relief to, provide houses for, and to help them that are poor, and not able to live by their work: For this we must know that there are three sorts of poor. 1. Such as are poor by impotency; As first, the aged decrepit persons, that are past labor; Secondly, the Infant Fatherless and Motherless, not able to work; Thirdly, the person naturally disabled in Wit or Member, as the Ideot, Lunatick, Blinde, Lame, &c. Fourthly, the person visited with sickness, who thereby

for

CHAP. 2. for the time is impotent. All theſe being impotent and not able to work, are to be found and provided for by the Over-ſeers of neceſſary relief.

2. Such as are ſo by Caſualty; As Firſt, He that is caſually maimed in his Calling, As the Soldier, Laborer, *&c.* Secondly, the perſon that is decayed by Fire, Water, Robbery, Sureſhip, *&c.* Thirdly, the poor man overcharged with Children. All theſe and ſuch like, having no ſufficient meanes to maintain themſelves, are to be holpen and ſet on work by the Over-ſeers, and being not able to live by their work, are further in Charity to be relieved in ſome reaſonable proportion according to their wants.

3. The thriftleſs poor; as firſt, the riotous and prodigal perſon that ſpendeth at play, drinking, *&c.* Secondly, the diſſolute perſon, as Strumpet, Pilferer, *&c.* Thirdly, the Sloathful perſon, that doth refuſe to work, or doth wilfully ſpoyl or embezzle his work. Fourthly, the Vagabond that will abide in no ſervice or place. Fifthly, ſuch as will work but for the wages taxed or uſually given. And for all theſe latter ſort, the Houſe of Correction or Common Gaol is the fitteſt place; and to the Houſe of Correction is he to be ſent, and not to his place of Birth, that will not work at the wages aſſeſſed or uſually given: but if they have able bodies, they are to be compelled to labor, for the Rule of Chriſt is, That ſuch as will not labor, muſt not eat, 2 *Theſ.* 3. 10. And yet if theſe prove unable to work, then

it

it seems they must have relief from the Parish, as well as others. CHAP. 2.

2. They are not to take care for houses or other relief, for such as are able to work, and have or may have work, nor yet for their Children; for they are by their work to maintain them also: but if such be overburthened with Children, it will be good for the Over-seers to place some of their Children Apprentices: and if these cannot have work, the Over-seers must procure them work; for none may beg in the High-wayes within, or without their own Parish, nor at any mans doors without their Parish, by any licence whatsoever, nor at any mans doors within the Parish, without order of the Over-seers of the poor. 3. Nor are they to take care of such as are able to live; and therefore if any such person travel through a Parish with Children, and the Father die, and leave them in this case, the Parish is not bound, but in Charity to relieve them. 4. Nor for such as having nothing to live by, have able bodies, may have work and will not work; they are not to take care to relieve Rogues, for they are to be sent away.

Numb. 6. In settling of poor, and where they shall be settled.

6. They must take care for such poor as have Parents or Grand-parents, Children or Grand-children, able to relieve them, as well as others, till they can be forced to help them. For the Justices of the Peace at their General Sessions, may rate the Father or Grand-father, Mother or Grand-mother, Children or Grand-children, being able to help relieve any poor people, and force them

CHAP. 2. them to pay it, if they live within the County. And yet if a woman having a Baſtard, take a Husband; it ſeems he is not bound to keep the Baſtard, unleſs he have an Eſtate by her. And if the place be not able to releive their poor, two Juſtices *Quorum Unus*, may charge any other place within the Hundred to help. And if the Hundred be not able, the Quarter Seſſions may charge the whole County.

7. They muſt take care for all ſuch, as are lawfully ſent to and ſettled amongſt them, if they prove impotent. But by the way, as to the point of ſettling theſe Rules and Caſes following, are to be known.

1. He that is a Native, Houſholder, Sojoner, Apprentice, or Servant within a Pariſh, and doth live there in peace but three weeks, or a Moneth together, is ſaid to be ſettled there; but he that paſſeth through a town only, or is in another mans houſe as an Inmate two or three dayes together, or lieth in an out-Houſe, or Barn, for a longer time, having no houſe to dwell in; or a Childe at Nurſe there, or a Scholler at School there; or in the place, being an Univerſity; or as a a Traveller in an Inn there; is not ſaid to be ſettled there by this. And therefore if any impotency happen to any ſuch, the place ſhall not be charged, but they ſhall be ſent to the place where they, or their Parents are ſettled, or where the Children were ſettled. Reſolved of the Judges.

2. If a perſon be once duly ſettled in a Pariſh, he may not be after removed, but there

there he muſt be relieved, or ſet a work, as his caſe is; for no man is to be put out of the Town where he dwelleth, nor to be ſent to his place of Birth, or laſt habitation, but a vagarant Rogue; And therefore they that have houſes or ſervices in Pariſhes, when their Eſtates or Services are ended, are to get new houſes, or ſervices, and work if they be able: for in this caſe the Pariſh is not to provide for them. But if they be impotent they muſt be there relieved, for they may not (in theſe caſes) be ſent to their places of Birth, or laſt dwelling. And yet it is ſaid in theſe caſes, if any of theſe perſons ſhall be taken begging abroad out of the ſame Pariſh, that in this caſe ſuch perſon may be ſent from the place where they are taken begging, as a Vagabond to the place of his Birth. Reſolved of the Judges. But if he go of his own accord into that Pariſh, and do not beg there, they cannot ſend him back; for none but a Rogue can be ſent back to any place from whence he came. *Paſch. 7. Car. B. R. per Ch. Juſt.* And thoſe yong Children whoſe Parents are dead, are to be ſet a work, relieved or maintained at the charge of the place where they are dwelling at the time of the death of their Parents, and are not to be ſent to their place of Birth, *&c.* For if the Parents be not Rogues, the Children cannot be Rogues till they wander and beg. CHAP. 2.

3. For further opening this matter, take theſe Rules. Firſt, the Law unſettleth none who are lawfully ſettled. Secondly, none may

may be settled by practice. Thirdly, none can be said to be settled in that place where he is in no quiet, but continually interrupted by complaints to Justices of Peace, their warrants, or other disturbances of the Parishioners, or Over-seers of the poor. Fourthly, no settlement can be made by composition and agreement. Fifthly, no settlement can be made by an illegal remove. Sixthly, nor can any settlement be by any mans being in a Parish obscurely, and in a skulking way, that the Parish cannot take notice of him.

4. For the opening and illustrating of these Rules, take these Examples and Cases. 1. If a Rogue be taken at *A.* and he will not confess, nor can they finde the place of his Birth, but he saith that his last habitation was at *B.* whereupon he is whipped and sent to *B.* and there he confesseth the place of his Birth to be at *C.* In this case, without any new vagarancy, they of *B.* may send him to *C.* Resolved of the Judges. Secondly, If one that hath a Family, take a house in a Parish for one yeer, and before the end of the yeer, he is forced out of the possession of it, and then goeth into another Parish and take part of a house, and is there as an Inmate but one, two, or three days, he is put out from thence; and then for want of a house lieth in a Barn in a third Parish, and there the Husband is sick, and Wife delivered of a Childe; Now in this case they shall be sent to and settled in the first Parish, where his house is, and from whence

whence he was lawfully removed; for none may be so forced to turn Vagarants. Resolved of the Judges. Thirdly, A Soldier Maymed in the late Wars before *May*, One thousand six hundred forty seven, must be settled in the place where he was settled when he took up Arms. *Ord. May*, One thousand six hundred forty seven. Fourthly, If an Apprentice or a Servant go out of that condition, he cannot be thrust out of the place, but must continue there, and be disposed of as his case requires. And if the Master of an Apprentice die before, or within the time, his Executors or Administrators must provide for him (if they be able) otherwise; and howsoever if the Apprentice become impotent, the Parish must do it, and so it is if he be placed by the Churchwardens. Resolved of the Judges. And if a Servant be got with Childe, and then goeth out of her Masters Service, before or after it appear she is with Childe, and the reputed Father is run away, or poor; in this case, not the Master, but the Parish shall be charged. Resolved of the Judges. Fifthly, The Wife regularly is to go with the Husband, albeit he be a Servant. Resolved of the Judges. And if a Husband and Wife be Rogues, and they have a house in another Parish, though as an Inmate, they may be sent thither. Resolved of the Judges. And General Children Seven yeers old, and vagarants, must be sent to and settled with the Father or Mother, or Mothers Husband; and if he be dead, the Mother where she

was

was born or last dwelt the space of a year. And being thus settled, they must there remain, and not be sent away from thence to their place of birth; though after their Parents die or run away, or the Children be above Seven years old, or do turn vagarant in that Town; for they must be there set on work. Resolved of the Judges. If a woman have a Bastard, and then take a Husband; it is said he is not bound to maintain this Childe, unless he have a sufficient Estate by his wife to do it. 10 *Car.* So held by the Sessions in the County of *Wilts*. And if a Rogue, whose last place, or place of birth cannot be known, have a wife, and Children under Seven years old, they must go with the Husband to the place, through which they were last wilfully suffered to pass without punishment, where the Children are to be maintained by their Fathers work, though they be sent to the House of Correction. *Dalt. I. P.* 14. If one hire a House in *A.* or have no House in *A.* and live there with his Wife and Children, and binde himself to serve one in *B.* In this case, the Wife and Children must remain in *A.* But if he hire a House in *B.* then they must be all in *B.* And Children, whose Parents are dead, are not to be sent to their place of birth, if they be like to be a charge; for the Parents not being Rogues, the Children cannot be Rogues, unless they wander or beg: In this case therefore they must be maintained at the charge of the Parish where the Father died. But if a travelling woman that

hath a Childe ſucking on her; be ſent to Gaol and then hanged for Felony, the Childe ſhall not be charged on the Pariſh where ſhe is hanged; but it ſhall be ſent to and ſettled in the place where ſhe was born, if it can be found, otherwiſe to the place where ſhe was taken. CHAP. 2.

The Baſtard Childe, the Mother, or reputed Father, being not able to maintain it, muſt be with the Mother ſo long as it is in the condition of a Nurſing Childe, and then it muſt be ſent to the place of its birth: And if one be delivered of a Baſtard Childe in one Pariſh, and after the Mother go into another Pariſh with it, or become vagarant, ſo that ſhe is ſent to the place of her birth; the Childe being under Seven yeers of age, is to be ſent to the place of his birth, and not ſettled with the Mother. Reſolved of the Judges.

If a woman ſettled in a ſervice, hap to be with Childe, which is like to be a charge, the reputed Father being gone or poor, the Pariſh where ſhe is muſt be charged; but if ſhe be in another Pariſh and ſettled, there ſhe muſt continue. Reſolved of the Judges. And therefore if a woman unmarried be hired Weekly, Half-yeerly or Yeerly, in one Pariſh, and there is begotten with Childe; and then goeth into another Pariſh, where ſhe is ſettled in ſervice or otherwiſe, two or three moneths; and then ſhe appear to be with Childe, and it is like to be charge to the Pariſh, the reputed Father being gone or poor; in this caſe ſhe is to be ſettled in

CHAP. 2. the Parish where she is not, where she w
begot with Childe. Resolved of the Judg
And if such a servant begot with Chil
and then go or be legally put out of
Masters service, the Parish, not the Mas
must be charged with it. Resolved of
Judges. So if a servant be with Childe wh
she is retained, and for this she is afterwa
by a Justice of Peace discharged of the serv
within the time, or she be with Childe
her time be expired, and she not able;
Parish, not the Master, shall be charged he
with. Resolved of the Judges.

4. The Justices of the Peace in th
Quarter Sessions, if any question be ab
these things, do settle it according to th
Rules.

5. Such as do remove any contrary
these Rules, may be fined; and if any be s
to any place against these Rules, they are
be sent back again to the place from whe
they came. *Stat.* 43. *Eliz.*

These Officers must provide houses as w
as victuals for their poor; and therefore th
may by order of the Quarter Sessions, a
leave of the Lord of the Mannor, first h
in writing under his Hand and Seal, bu
any house for the impotent poor of the P
rish in any waste part of the Mannor, a
they may place more Families then o
therein, as Inmates, without any dange
but then this house must not be afterwa
converted into any other use; for so it m
become a Cottage afterwards.

Numb. 6. They are to do their work by and wi

CHAP. 2.

e money raiſed by the Rates; alſo with e money that comes to them by the for-tures of Delinquents upon the Statutes ainſt Alehouſe-keepers and Tiplers, ſale of eaters, default of Clothiers, the Fleſh in nt in a Victualling houſe, for taking Par-dges, profaining the Sabbath or Godsname; ſuch as offend againſt the Statute made the poor, and againſt Rogues.

The next main thing wherein the duty theſe Officers doth lie, is in making of es. For to this purpoſe, it is provided, t the Church-wardens and Over-ſeers the poor, or the greater part of them, with aſſent of two Juſtices of the Peace, may weekly or otherwiſe (by Taxation of every Inhabitant, Parſon, Vicar, and other; of every Occupier of Lands, Houſes, thes impropriate, or propriation of Tithes, al-mines, or ſaleable Underwoods in the Pariſh, in ſuch competent ſum and ſums money as they ſhall think fit) a conve-nt ſtock of Flax, Hemp, Wool, Thread, n, and other neceſſary Stuff to ſet the r on work: and alſo competent ſums of ney, for and towards the neceſſary re-f of the Lame, Impotent, Old, Blinde, and h other among them being poor and not le to work: And alſo for the putting out the Children of poor perſons to be Ap-ntices: And alſo for the ſetting up of les for the poor, to be gathered out of e ſame Pariſh, according to the ability of e ſame Pariſh, and they may do and exe-te all other things, as well for the diſ-

Numb. 7. In making of Rates.

CHAP. 2. poſing of the ſaid ſtock, or otherwiſe co
cerning the premiſes as to them ſhall ſe
convenient. For the better underſtanding
which branch of the Statute of 43 *Eliz.* a
diſcovery of the Law, concerning Rates
generall, theſe things muſt be known.

1. That when Officers are to make a
Rates, they ſhall do well the firſt of all to g
publike notice in the Church of the time
place, when and where they intend to ma
the ſame (for this in the caſe of Church ra
is neceſſary;) and then if the Pariſhioner
will meet they may, if not the Officers a
thoſe that do meet, may make the Ra
2. The Rates muſt not be extended beyo
the Pariſh, neither may the Over-ſeers R
other Pariſhes towards the Rates of the po
of their Pariſh. For in *Hill.* Term. 10 *Car.* in
Nichols and *Walker*, was this caſe in the *Kin*
Bench. Totridge was time out of mind, with
the Pariſh and Parcel of the Pariſh of *H*
field, in the County of *Hertford*; and the P
ſon of *Hatfield*, had time out of minde, had
the Tithes out of *Totridge*, as within the P
riſh of *Hatfield*, and had always placed C
rates there to ſay Divine ſervice in the Cha
pel of *Totridge*; and that for Sixty yeers bef
Totridge was repaired a Pariſh of it ſelf, a
during that time, had Parochial Officers
and that of late, the Over-ſeers of the po
for the Pariſh of *Hatfield*, had taxed t
Plaintif *Nichols* (being an Inhabitant
Totridge) to pay to the poor of *Hatfi*
which tax was confirmed by the Juſtic
and the money being unpaid, the Def
di

…nt *Walker*, being an Over-ſeer by Warrant …om the Juſtices of Peace, diſtrained the …aintifs goods; and for this taking of his …oods, *Nichols* brought an Action againſt …*alker*: and in this caſe it was Adjudged …r the Plaintif, and Reſolved by the Judges, …hat *Totridge* being but a Pariſh in reputati… only, ſhould not be liable to the taxation …ade by the Over-ſeers of the poor of *Hat…ld.* 3. Every man muſt be Rated for his …and to all Rates according to the quality …d yeerly value, and not accordiog to the …antity thereof. And ſo was the opinion …the Lord Chief Juſtice, and Baron *Den…*, at an Aſſiſes at *Sarum.* 8 *Car.* 4. He …at doth occupy Land in his own hands, …ing in ſeveral Pariſhes, muſt be charged …every Pariſh for his Land there, onely …oportionably and no more. 5. The Far…er is to be Rated for the Lands he hath …Leaſe, not the Leſſor. 6. The Lord or …eſſor ſhall not be charged for the Rent …ſuing out of the Land, becauſe the Ten…nt is chargable for the whole Land. 7. If …ere be ſome other Lands within the …ariſh that be ancient Demeſn, and ſome …at be Guildable, it ſeems they muſt be all …ated, and ſo alſo of Copyhold Lands. …Impropriations (by the very Letter of …e Statute) are to be Rated to the poor …s well as other Lands. And in the Rating …f them, it ſeems reaſonable, that where …ey have the Tenth of the whole Pariſh, …ey bear the Tenth of the charge of the …ate to the poor. And ſo hath it been of

CHAP. 2. late Resolved by the Judges. 9. Saleab
Underwoods (by the expres Letter of t
Statute are Rateable, and by these are
tended generally, all Woods for Fire-woo
albeit they be not cut in Thirty or Fo
yeers (as the Beech-Wood of many Co
tries is used to be cut) for it seems there
no Wood to be exempted from this Ra
but Timber-Wood onely: Also Coal-mi
are chargable to this Rate, and for th
things they must be proportioned to a ye
ly benefit. So that if a man have a hundr
Acres of Wood within the Parish, it m
be considered what Wood he may sell, a
what benefit he may make thereof yee
to the Worlds end; and according to t
same, the Rate must be made: And
Coal-mines it must be considered what
nefit a man doth make by them, and acc
ding to the same, he must be Rat
10. Parsons, Vicars, and such like pers
(as Inhabitants) within the intent of t
Statute, are to be Rated towards the re
of the poor, as well as other men; and
hath it been Resolved of late by the Jud
11. Any man that dwelleth within the
rish, albeit he have no Land within t
Parish, may be Rated towards the relief
the poor of the Parish. And so hath it be
also Resolved by the Judges. 12. In so
cases a man may be taxed for his Goods,
well as for his Lands; and in case of
Rate for the poor, men may be taxed
their visible Estate of goods, *viz.* their Ox
Kine, Sheep, *&c.* as well as for their Lan
a

nd not onely for those Goods that are ithin the same Parish, where a man doth well, but also for those Goods which he ath in any other place: for a man shall ot be Rated for his goods in any place, but the place where he doth dwell. Nay it is eld in this case of Rāting for the poor, me respect may be had to mens invisible tate of money; for the case may be so, that e Raters may know a man within the Pa- h that hath no other Estate, and yet per- ps hath an Annuity of One hundred nds by the yeer, or hath Hundreds of ousands of pounds of money owing to m; and in such a clear and certain case, y may no doubt Rate him according to t value. 13. In some special case a man y be Rated beyond his ability: for if Parishioner for his own gain, or other- se, shall bring into the Parish, without the nsent thereof, a Stranger, who is, or is a-p rently like to be burthensome to the Pa- h, in this case the Parishioners (because ey have no other remedy against him) y Rate him not onely according to his a- lity of Lands and Goods, but according the Damage he bringeth, or is like to ing to the Parish by his folly: For if any rson shall finde himself grieved with any ch Rate to the poor, or other such like act me by the Over-seers of the poor, or the stices of the Peace, he hath no other re- edy but to complain to the Justices of the ace at the Quarter Sessions, where (the se appearing to be as aforesaid) he shall

CHAP. 2. have little relief. 14. If any man refuſe to pay his Rates for the poor, the preſent or ſubſequent Over-ſeers of the poor, ſhall have a Warrant from the Juſtices of the Peace to levy the ſame of the parties goods; And thereupon they may and muſt ſell the parties goods, and pay themſelves their Rate, and give the party the overplus of the money if there be any; and if he have no goods, then to carry him to Gaol, there to abide until he do pay it.

Theſe Officers with the Church-warden, the Parſon or Vicar, and the Conſtables of the place, or the moſt part of them (where any money is or ſhall be given, to be continually imployed for the binding out as Apprentices, the pooreſt ſorts of Children) ſhall within the ſame places, have the nomination and placing of ſuch Apprentices, and the guiding and employment of ſuch monies as have been heretofore ſo given; or which hereafter ſhall be ſo given, to and for the continual binding forth of ſuch and ſo many Apprentices; and in ſuch ſort as is already, or ſhall hereafter be ſo given and appointed, either by the laſt will, or any writing, under the Hand and Seal of the givers of ſuch moneys. And if any of them wilfully forbear or refuſe according to their duties, to imploy ſuch moneys, by means whereof the ſaid money ſhall not be imployed accordingly, then every of them ſo offending ſhall forfeit Three pounds for every ſuch offence. And the Maſter, Miſtreſs or Dame of ſuch Apprentices ſhall be bound wit

with one or two ſufficient ſureties, in double the ſum they have received with ſuch Apprentices, to ſuch perſons as aforeſaid, appointed to diſpoſe the ſame moneys, to repay the money ſo received at Seven yeers end or within Three Moneths next after the ſame Seven yeers ended. And if the Apprentice, Maſter, *&c.* happen to die within the ſaid Seven yeers, then within one yeer nex after ſuch death. And theſe Officers and the reſt ought to put forth and employ ſuch moneys within Three moneths at the furtheſt, after the ſame ſhall come to their hands. And if there ſhall not be found fit perſons to be bound out Apprentices in the Towns and Pariſhes, where ſuch moneys are or ſhall be given, to be employed as aforeſaid, the pooreſt Children of any of the Pariſhes next adjoyning may (by the diſcretion of the ſaid Parſon, Vicar, *&c.*) be bound Apprentices, taking ſuch Bonds as are before mentioned. And choice muſt be always made of the pooreſt ſort of Children; and that no Apprentice be above Fifteen yeers old when he ſhall be firſt bound. And the ſaid Parſon, Vicar, *&c.* are once every yeer in *Eaſter* week, or within a moneth after *Eaſter day*, to be accomptable before Four, three or two Juſtices of the Peace, dwelling in or next the ſaid Towns or Pariſhes, for all ſuch monys as they have employed in binding of Apprentices; and of all Bonds and Obligations taken for payment thereof, and of the money remaining in their hands; and are at ſuch accompt

CHAP. 2.

or

CHAP. 2. or within Ten days after, to deliver to their ſucceſſors or to ſuch as then be in their times or places, all the ſaid Bonds and Obligations, and ſuch moneys as remain in their hands not then employed.

Numb. 8. In making Preſentment. They muſt, being required by the Juſtices of Peace, attend them, and with the Church-wardens give them an accompt of theſe things; what ſtocks of money are in their Pariſh by Rates or otherwiſe; what Apprentices they have placed; and what they have done in all the reſt of their Office.

Theſe Officers and the Church-wardens are to meet monethly in the Church, on Sunday after Evening Prayer (except they be let by Sickneſs or other cauſe, to be allowed a good excuſe by two Juſtices of the Peace) to conſider of all theſe things.

They are always within Four days after the end of their yeer, and after other Overſeers named and allowed by the Juſtices, to give up to any two ſuch Juſtice of the Peace as aforeſaid, a true and perfect accompt. 1. Of all ſums of money by them received or rated, and not received. 2. Of all ſuch ſtock of Ware or Stuff as they or any of their poor have in their hands. 3. What Apprentices they have put out. 4. What poor they have ſet on work or relieved. 5. Whether they have ſuffered any of their poor to wander and beg out of their Town, or in the Highwayes, or in their Town without their direction. 6. Whether they have not monethly met to conſider of theſe things. 7. Whether they have Aſſeſſed the Inhabitants and

and Occupiers of Lands, *&c.* in their Pariſh, *viz.* All ſuch as are of ability, & with indifferency. 8. Whether they have endevoured to levy and gather ſuch Aſſeſſments: 9. Whether they have been any way negligent in their Offices in executing the Juſtices Warrants about any thing touching their Office. CHAP. 2.

And if any Church-warden or Over-ſeer ſhall refuſe to give up his accompt as aforeſaid, and to pay over the Arrearages due (if any be) upon the ſame accompt, unto his ſucceſſor, he may be committed to the Gaol by two Juſtices of the Peace, until he do accompt and pay over the ſame money. And if any of theſe Officers ſhall offend in any other of the particulars aforeſaid, he ſhall forfeit for every default Twenty ſhillings.

All theſe forfeitures are to go to the uſe of the poor of the Pariſh, and may be levied as followeth, *viz.* The money forfeited by the Father, Grand-father, *&c.* of any poor perſon taxed by the Juſtices, towards the maintenance of ſuch poor perſon that will not pay that Rate, may be levied of the offenders goods upon a Warrant from two or more Juſtices of Peace as aforeſaid, by ſale of the ſame goods, rendring to the party the overplus of the money. And if there be no diſtreſs to be had, the Juſtices of Peace may commit the offender to priſon, there to remain without Bayl, until the forfeiture be paid: The money forfeited by the Church-wardens or Over-ſeers, for not receiving or taking care to convey a Rogue, *&c.* may be

levied

CHAP. 2. levied upon the offenders goods, upon a Warrant from two or more Juſtices of the Peace: The moneyforfeited by the Church-wardens & Over-ſeers for offending in any of the particulars aforeſaid, may be levied by the Subſequent Church-wardens and Over-ſeers upon the offenders goods; alſo in the ſame maner by a Warrant from any two Juſtices of the Peace. And if there be no ſuch diſtreſs to be found, the ſame Juſtices may commit the ſame offenders to Gaol, until they do pay it. And if any man ſhall in any wiſe diſturbe the Execution of the Statute of 39 *Eliz.* 4. he ſhall forfeit Five pounds and be bound to the Good-Behavior by any two Juſtices of the Peace.

We have done with the Office of theſe Officers ſo far as it concerns the poor, now we come to that wherein their Office lieth about other matters; the which is given them alſo by certain Acts of Parliament, and lieth in theſe Particulars following.

Numb. 9. Againſt ſuch as prophane the Lords day.

For the better underſtanding of the Law herein, theſe things are to be known. 1. This day is by every one to be Sanctified and kept holy, and men muſt be careful herein to exerciſe themſelves in the duties of Piety and true Religion, publiquely and privately: and every one on this day (not having a reaſonable excuſe) muſt dilligently reſort to ſome publique place, where the Service of God is exerciſed, or muſt be preſent

ſent at ſome other place in the practice of ſome Religious duty, either Prayer, Preaching, Reading or Expounding the Scriptures, or conferring upon the ſame. 2. None may on this day meet out of their own Pariſh at any ſports whatſoever; nor may they meet within their own Pariſh for Bearbaiting, Bulbaiting, Enterludes, or other unlawful exerciſes under pain to forfeit Three ſhillings four pence for every offence, to be levied by diſtreſs and ſale of Goods; and for lack of diſtreſs to ſit Three hours in the ſtocks. Nor may any one on this day, keep or be preſent at any Wraſtlings, Shootings, Bowlings, Ringing of Bells for pleaſure, Maſque, Wake, Church-ales, Drinking-games, ſport or paſtime whatſoever, under pain to forfeit Five ſhillings, if he be above Fourteen yeer old; and Twelve pence by him that hath the government of him, if he be under Fourteen yeer old, to be levied by diſtreſs and ſale of Goods, or if no diſtreſs be to be had, to ſit in the ſtocks Three hours. 3. No Carrier may go with his horſes, Wagoner, Carter or Wainman, may go with his Cart, Wagon or Wain; or Drover with his Cattle on this day, under pain to forfeit Twenty ſhillings for every Offence, to be levied by diſtreſs and ſale of Goods, if he be queſtioned within Six weeks after the Offence done. But there ſhall be but one Twenty ſhillings forfeited for one journey, although he paſs through Twenty Pariſhes; and this Twenty ſhillings that Pariſh ſhall have where the diſtreſs is firſt taken. 4. No Butcher may kill

CHAP. 2.

Carriers.

Butcher.

CHAP. 2. kill or sell any victuals on this day, under pain to forfeit Six shillings eight pence, if it be questioned within Six weeks after the Offence done, to be levied by distress and Sale of goods. 5. None may Cry, shew forth, or put to sale any Wares, Merchandizes, Fruit, Herbs, Goods, or Cattle on this day, unless it be in an Inn or Victualling-house; and for such as cannot otherwise be provided for, and unless it be the crying and selling of Milk before Nine in the Morning, and after Four in the Afternoon, from the Tenth of *September* to the Tenth of *March*; and for the rest of the yeer, befoer Eight in the Morning and after Five in the Afternoon, under pain to forfeit the things so Cried or offered to Sale. 6. None may on this day without good cause, by allowance of one Justice of Peace, travel, under pain to forfeit Ten shillings, nor carry any burthen, or do any worldly labor, under pain to forfeit Five shillings: Both these forfeitures to be levied by distress and sale of Goods; and if no distress be to be had, to sit in the stocks Three hours. 7. None may on this day or the days of Humilliation, or Thanksgiving, use Dancing, profanely Drinking, or Tippling in any Tavern, Inn, Alehouse or Tobacco-house, nor be there, or grinde any Corn at a Mill but upon cause, to be allowed by one Justice of Peace, under pain to forfeit Ten shillings a peece; he that is in the Inn, and he that keeps the Inn; the Millard, and he that owes the Corn, to be levied by distress and sale of Goods, and for

Tradesmen.

Traveller.

Drinking Tippling.

lack

lack of diſtreſs, to be ſet Six hours in the Cage or Stocks. 8. No Traveller, Waggoner, Butcher, Higler, Drover, or their ſervants, ſhall come into their Inn, or lodge on Saturday night after Twelve a clock, nor go from thence Monday morning before One of the clock, without neceſſary cauſe, to be allowed by one Juſtice of the Peace, under pain of forfeiture of Ten ſhillings by the Traveller, and to be levied by diſtreſs and ſale of Goods, and for lack of diſtreſs to be ſet Six hours in the Stocks or Cage. 9. None may execute any writ, order or warrant on this day, days of Humilliation, or Thankſgiving (but in caſe of Treaſon, Felony, breach of the Peace, any profaining of the day) under pain to forfeit Five pounds, to be levied by diſtreſs and ſale of Goods, and for want of diſtreſs to ſit Six hours in the Cage or Stocks: and the ſerving of the Proces is void. 10. None (but in caſe allowed by one Juſtice, or for Gods ſervice) may travel with any Boat, Wherry, Lighter, Barge, Horſe, Coach, or Sedan on this day, under pain of forfeiture of Ten ſhillings by him that is carried, and Five ſhillings by him that doth carry, to be levied by diſtreſs and ſale of Goods, and for lack of diſtreſs to ſit Six hours in the Cage or Stocks.

CHAP. 2.

Serving of Proces.

Coaches, Boats.

Any one of theſe Officers, upon their own ſight or knowledge of any Offence done, by ſelling, Crying or Offering of Wares to ſell on the Lords day; as before, may ſeize and ſecure the Wares and Goods, till Juſtice may be done againſt the Offender therein.

Alſo,

CHAP. 2. Also any of these Officers may search for the discovery, finding out, apprehending and punishing of all the Offenders, against any of the Laws aforesaid. And all that this Officer is to do, as it seems by this Law, is onely to search; and if he finde any thing, to inform the Justice of Peace thereof: for it seems to me he cannot do more without a Warrant from a Justice of Peace. *Act.* 9 *April*, One thousand six hundred and Fifty.

Numb. 16. Against Swearers. Every one that Sweareth, is to forfeit for the first Offence as followeth. The Lord, and all above him in degree, Thirty shillings. The Baronet or Knight, Twenty shillings. The Esquire Ten shillings. The Gentleman Six shillings eight pence. Any other man or woman, Single or Married, Three shillings four pence, and for every Offence afterwards twice as much. And for the tenth Offence, being proved by verdict or confession, he is to be bound with sureties to the Good-Behavior for three yeers; and for lack of payment or giving security to pay it, and distress to levy it, if he be above Twelve yeers old, he is to set by the Heels in the Stocks three hours for the first Offence, and six hours for every Offence after; if under Twelve yeers, he is to be whipped by the Constable, or Master, or Father, in his presence three swearing after the surety; for the Good-Behavior given is a breach of the Bond.

Any one of these Officers may without Warrant apprehend, or cause to be apprehended; and carry or cause to be carried

to a Justice of Peace, to the end he may be there punished, any one that doth Swear, or curse against the Law. *Act.* 28 *June*, One thousand six hundred and fifty.

CHAP. 2.

Any one of these Officers may also take down superstitious Monuments and Pictures upon the Ordinance of *May*, One thousand six hundred forty and four.

About Superstitious Monuments.

If a Rogue be tendred and brought to any one of the said Officers, to be conveyed to any place, he is to receive him and look to him, as well as the Constable, or he may forfeit the Five pound penalty appointed, by the Statute of 39. *Eliz.*

About Rogues.

CHAP. III.

Of the *Supravisors* of the High-ways, and their Office.

Numb. 1. What they are, and how they are chosen.

THe Supravisors or Surveyors of the High-ways, are Officers yeerly chosen by the Constables and Church-wardens of the Parish, to look to the amendment of the High-ways within the Parish. For the Constables and Church-wardens of every Parish, must yeerly upon the Tuesday or Wednesday in the *Easter* week, call together some of the Parishioners, and then chuse two honest persons of the Parish, to be Orderers and Over-seers of the works, for the amendment of the High-ways of the Parish leading to Market Towns. The which persons so chosen, shall have power to order the persons and carriages appointed for the work, according to their discretion: And if either of the said persons so chosen and appointed, shall refuse to take on him and execute the said Office, he shall forfeit

forfeit Twenty shillings for this refusal. Stat. 2 & 3 *Phil. & Ma.* c. 8. 18 *Eliz.* 9. 5 & 13. 29 & 5.

CHAP. 3.

Numb. 2. Their Office and Duty.

For the discovery of the duty of these Officers, and the Law in this point; these things are to be known.

1. That they have to do with no ways, but the Publique High-ways. And so hath it been resolved by the Judges in the Upper Bench: For the Statute is High-ways leading to Market Towns.

2. The Constables and the Church-wardens of the Parish are at the time of chusing of these Officers, to name and appoint six days, to be before the Nativity of Saint *John* the Baptist, then next following, set apart for the amending of the High-ways; and they are to give notice thereof the next Sunday after in Publique in the Church: And this being done, these Officers, *viz.* The Surveyors of the High-ways are to see that the same be observed, and that all the Parishioners do their work on the same days in maner as followeth.

3. Every person having a Plough, Land in Tillage, or in Pasture, in the same Parish, or keeping there a Plough or a Draught, shall finde and send on every day to the place appointed, one Wain or Cart, provided after the fashion of the Country, with Oxen, *&c.* fit for the carriage, and with necessary Tools fit for the work, and with two able men; and then and there these men must do such work with their Plough, *&c.* as they shall be appointed to do by the Surveyors

CHAP. 3. veyors aforesaid, by the space of Eight hours on every of the said days, under pain to forfeit for every default Ten shillings. And every other Housholder, Cottager, and Laborer of the Parish (able to labor, and being no hired servant by the yeer) must by himself, or some other able man, be then and there ready to work, and work every one of the said Six days by the space of Eight hours, as they shall be appointed by the said Surveyors, under pain to forfeit Twelve pence for every day they shall make default herein. In the Explication of which Branch, these things are to be known.

First, That a Plough-Land is not of any certain content, but ordinarily so much as one Plough may plough in one yeer; which in some Countries is more, in some less, according to the heavinesse of the soyl. *Cook.* 4. 37. & 9. 124.

Secondly, That so many Ploughs as men usually have, and use in the Summer about their own businesse, so many they are to bring with them to this work: So that (for example) if a man with one Plough, and five or six Horses, shall plough Seven or eight-score Acres of Earable Land, and shall usually go in the Summer with two Carts or Draughts; in this case, it seems he is to come with two Carts or Draughts to this service. And he that occupieth Forty or fifty Acres of Land, and keepeth onely three Horses, and one Draught or Cart, he is to come with one Draught or Cart.

Thirdly,

Thirdly, If a man keep onely two Horses and a Cart for his own business; in this case it seems, he is to come with his Cart and two Horses, provided with a man or men to manage them. CHAP. 3.

Fourthly, He that hath a Plough-Land, and hath no Plough, but doth suffer his Land to lie fresh, yet is to finde and send a Plough to this work: And so it was agreed by the Judges in the Upper Bench. *Mich.* 21. *Jac.*

Fifthly, A Plough-Land may contain House, Meadow, Pasture, and Wood; and therefore, if one have so much of this, as will keep a Plough, and yield Tillage for it, if part of it were Eared up: In this case, it seems, he is bound to send his Plough, or else to pay for the same the penalty appointed by the Statute, for his neglect.

Sixthly, He that keepeth a Plough or Draught for carriage, albeit he occupieth little or no Land or Pasture, in his own hands; yet such one it seems is bound by the Statute to send his Plough to this service.

Seventhly, He that doth occupy a Plough-Land lying in Tillage or Pasture, in several Parishes, shall be chargeable to the amending of the High-ways in the Parish where he dwelleth, as far as any person having a Plough-Land in any one Parish is chargeable.

Eightly, Every person keeping in his hands and possession, several or divers Plough-Lands, shall be charged to finde in

each Town or Parish where the Plough-Lands (being in his occupation) do lie, one Cart, &c. furnished for the reparation of the High-ways, in the several Parishes where his Land doth lie; as if he were a Parishioner dwelling in the Parish where the Plough-Land doth lie.

Ninethly, If a man be chargeable but as a Cottager, yet if he be in the Subsidy Five pounds in Goods, or Forty shillings in Lands; so long as he stands at that Rate, he is to send two able men to the work every one of the Six days.

4. If the Surveyors shall think any of the Ploughs or Carts to be needless any of the days, they may spare them, and instead thereof require two able men; the which must come under pain to forfeit Twelve pence a man for every default.

5. These Officers must see that the work be done according to the direction of the Statutes; and every man is to see that he doth his part therein. But if the Surveyors themselves shall licence any man to do less then his work, this will excuse him.

6. The Owners of the Grounds adjoyning to the High-ways, are to take care that all the Fences, Hedges and Ditches, next adjoyning on either side of the same, be from time to time Dicked, Scoured, Repaired, and kept low; and that all the Trees and Bushes therein be cut down, under pain to loose for every default Ten shillings. And if any man hath any Ditch in his own Ground, that doth serve to lead away the water

water out of the High-way, and he doth not scour and keep the same clean, so as to convey away the water; he shall forfeit for every Rood not so scoured Twelve pence. And if any man that hath a Ditch lying by the High-ways side, doth cast the same up into the High-way, and then suffer the same to lie there, by the space of Six moneths, to the annoyance of the High-way; he shall forfeit for every Load, so cast up, Twelve pence. CHAP. 3.

7. These Officers may, if they see cause for the amendment of the High-ways, take and carry away so much of the Rubbish, and smallest broken Stones already digged of any mans Quarry, lying within the same Parish, without leave of the Owner, as they shall think needful: But they may not without Licence dig in any mans Quarry for new Stones, much less take away any mans Stones already digged. And if there be no such Rubbish to be found in any mans Quarry, within the said Parish, then may they enter into any mans several Ground (within the Parish) lying neer the place where the ways are decayed; and there if they see hope of finding Materials fit for reparation thereof, may dig a new Quarry without any leave of the Owner of the Grounds; or they may enter upon any mans Ground, and gather the Stones that lie dispersed there: But they may not without leave dig for any new Quarry in the House, Garden, Orchard, or Meadow of any man; nor (albeit it be in other Ground) dig more

then one pit, and the same in bredth or length not above Ten yards over at the most; and then also they must take care that the same be within one moneth after filled up again at the charge of the Parish, under pain to forfeit Five marks to the Owner of the Ground. And if there be any Spring or Water in the High-way, that doth annoy the High-way, they may turn the same out of the High-way into any mans Ditches, according to their discretion.

8. They must within one moneth after any default is made in any of the particulars aforesaid, present the same to the next Justice of Peace, under pain to forfeit Forty shillings for every neglect. And this Presentment that Justice of Peace must present to the next Quarter Sessions, under pain of Five pounds.

9. If any man offend against the Statute of 2 & 3 *Phil. & Mary.* (i.) *If the Constables and Church-wardens shall not make a due election of these Officers, and set down and give notice of the times and days for the work; or if the Surveyors do not look to, and order the work; or the Parishioners do not wait upon the work as aforesaid: In all these cases, the Offender may be punished by Fine or Amerciament in the Quarter Sessions or Leet, according to the discretion of the Justices of the Peace, or the Steward.* And these Fines and Amerciaments are to be levied and imployed by the High Constable, in such sort as is set forth in *Chap.* 1. of the Constables Office in my First part. And if any man offend against the Statute of

of 5 *Eliz.* (*i.*) *If these Officers after they have digged in any mans Incloſed Ground, ſhall not fill the Pit again; or if they ſhall not preſent the defaults to the next Juſtice of the Peace as aforeſaid; or if any of the High-ways ſhall be unrepaired; or the Owners of Grounds ſhall not cut up the Buſhes, and Scour their Ditches adjoyning to the High-ways: In theſe caſes, the Offender may be puniſhed by Fine at the Quarter Seſſions, according to the diſcretion of the Juſtices of the Peace.* And theſe Fines are to be levied and employed, as Fines and Amerciaments levied upon the Tranſgreſſors of the former Statute. And if any man offend againſt the Statute of 18 *Eliz.* Chap. 9. (*i.*) *If any man caſt ſoyl into the Highway, and do not remove it within the time aforeſaid; or do not ſcour their ditches, &c. and cut down their Buſhes in their High-ways*; the forfeitures of theſe men (being ſet down in certain by the ſame Statute) may be levied by theſe Officers immediately by diſtreſs and ſale of the Offenders Goods, upon a Warrant ſent from the Juſtices of Aſſize, Juſtices of the Peace, or Steward of a Leet, before whom the ſame perſons ſhall be convict. And if they be negligent, and do it not within a yeer, then the Conſtables or Church-wardens of the place, may levy the ſame as money is uſed to be levied upon an Amerciament in a Leet. CHAP. 3.

10. If all this labor appointed by the Statutes to be beſtowed on the High-ways, be not ſufficient for the amendment thereof, the Pariſh muſt ſupply it: For the Pariſhioners

CHAP. 3.

oners of every Parish are to look to their High-ways, that they be well repaired and kept at their peril. For an Information or Endictment may be (by the very Common Law preferred for the Keepers of the Liberties of *England*, &c.) against the Inhabitants of a Parish for not repairing of their High-ways; and thereupon they may be fined to the Keepers of the Liberty, &c. And in this case the Fine shall not go to the use of the High-ways, as the forfeitures and penalties for the breaches of the Statutes shall do.

See more for the Amendment of the High-ways, in *Sussex*, *Surrey*, and *Kent*, Stat. 39 *Eliz.* c. 19. 27 *Eliz.* c. 19.

CHAP.

CHAP. IV.

Of the *Governor* of the Houſe of Correction, and his Office.

THe Governor or Maſter of the Houſe of Correction, is an Officer appointed by the Juſtices of Peace, to have Over-ſight and Government of the Houſe of Correction, and of perſons committed to the ſame. For ſuch Houſes are to be, and are provided and maintained with Miles, Turns, Cards, and ſuch like neceſſary implements in every County, for the Keeping, Correcting, and Setting to work of Rogues, Vagabonds, Sturdy Beggers, and other idle and diſorderly perſons. And the Juſtices of the Peace or the greater part of them, at the Quarter Seſſions, are to chooſe and appoint one or more ſufficient and honeſt perſons to be Governors or Maſters of the ſaid Houſe, and to take ſufficient ſecurity from the

Numb. 1. What he is, and how he is choſen.

CHAP. 4. the ſaid Governors for the continuance and performance of the ſaid Service; and to ſet down what allowance they ſhall have yeerly for their pains (which they may charge upon the County) and for the relief of ſuch as ſhall happen to be weak and ſick in their Cuſtody; and for the Stock to ſet on work ſuch perſons as ſhall be committed thither; and to ſet down other Orders touching the ſame, according to their diſcretion: And this Money ſo allowed, they ſhall have according to the appointment of the Juſtices of Peace as aforeſaid, to be paid quarterly before-hand by the Treaſurer of the County, for the relief of the priſoners in the *Kings Bench* and *Marſhalſey*. And if the Treaſurer refuſe or neglect to pay it thus, the Maſter of the Houſe of Correction may levy the ſame, or ſo much thereof as ſhall be unpaid upon the Treaſurers accompt, by diſtreſs and ſale of his Goods, rendring unto him the overplus of the Money, 39 *Eliz.* 4. 7 *Jac.* 4. The Office and Duty of this Officer, is in theſe things.

Numb. 2. His Office and Duty.

Firſt, To look well to the ſame Houſe, and the backſide thereof, and all the Implements and Goods he doth finde there; he is alſo to look to all the perſons he doth finde there, or that ſhall be afterwards committed to him.

Secondly, To receive ſuch Rogues, Vagabonds, Idle, or Diſorderly perſons, as by any of the Juſtices of Peace ſhall be ſent thither.

Thirdly, To keep ſafely all ſuch as are committed

committed to him, and not to ſuffer them to wander about the Countrey, or to eſcape away with out Order of the Juſtices. CHAP. 4.

Fourthly, To ſee and take care, that amongſt the perſons committed to his charge, if there be any ſick or otherwiſe impotent, *&c.* that have need of relief, That he do relieve them according to their neceſſity.

Fifthly, To ſee and take care, as for the reſt that are able to work, that he do from time to time, as they ſhall remain there, ſet them to work and labor; for during that time they muſt in no ſort be chargable to the Countrey for any allowance, either at their coming in or going forth, or abode there; for they are to have ſuch and ſo much allowance onely, as they ſhall deſerve by their own labor and work.

Sixthly, To puniſh them (as he ſeeth cauſe) with putting on Fetters or Gives upon them, and by a moderate whipping of them.

Seventhly and laſtly, At every Quarter Seſſions to give an account of all ſuch perſons as have been committed to his cuſtody. And if they ſhall offend in any of theſe particulars, or any other incident to the duty of their Office; the Juſtices of the Peace may impoſe ſuch Fines and Penalties upon them for the ſame, as they ſhall think fit. And theſe fines muſt be paid unto, and accounted for, by the Treaſurer of the County for the *Kings Bench* and *Marſhalſey*.

CHAP.

CHAP. V.

Of the Treasurers of the County Stock, for relief of Poor Maimed Soldiers and Marriners, and the Widows and Orphans of such as died in the Service of the Parliament, and their Office.

Numb. 1. What they are, and how they are chosen.

THe Treasurers of the County Stock for the relief of Poor maimed Soldiers and Marriners, are certain Officers yearly appointed by the Justices of Peace to have the charge of the Receipt and Disbursement of the money taxed and levied upon the whole County yearly for the relief

relief of poor maimed Soldiers and Marriners: For the Justices of the Peace are yeerly at their Quarter Sessions, about *Easter*, to choose or appoint one or two persons (according to their discretion) of the County, for the taking and distributing of the moneys of the County, collected for the relief of the poor maimed Soldiers and Marriners: And the men so appointed (by the words of the Statute) must be such men as at the last Taxation before for the Subsidy were valued at Ten pounds in Lands yeerly, or Fifteen pound in Goods (but if they be sufficient men, this it seems is not stood upon.) And these are to continue in their Office one yeer, and no longer, and then others are to be chosen in their room, 43 *Eliz.* 3.

Numb. 2. Their Office and Duty.

The Office and Duty of these Officers doth consist in these things. 1. They are to receive of the High Constables of the Hundreds quarterly the sums of money rated and taxed by the Justices of the Peace upon every Parish, for the relief of sick, hurt, and maimed Soldiers and Marriners; and if in case there be any defaults by the petty Constables, or High Constables, in the levying of the sums, or in the payment of them over, so as thereby they make any forfeiture. These Officers (and as it seems) without any Warrant from the Justices of Peace, may levy the same forfeitures by sale of the offenders Goods, rendring to him the overplus for the Parishioners; and in their default, the Petit Constables and Churchwardens are to set the Justices Rate: And this

CHAP. 5. this Rate, if men pay not, the Church-wardens and Petit Conſtables may levy it by diſtreſs and ſale of their Goods: And if neither the Pariſhioners, nor Conſtables and Church-wardens do ſet the Rate, then any Juſtice of Peace in or near the place, may do it.

2. Every Soldier or Marriner, impotent, ſick, and diſabled by the Publique ſervice, having a Certificate to any of theſe Officers, under the Hand and Seal of the General of the Camp, or Governor of the Town where he ſerved, or of the Captain of the Band under whom he ſerved, or his Lieutenant; or in the abſence of the ſaid General or Governor, from his Marſhal or Deputy, or from any Admiral; or in his abſence, from any other General of the Ships at the Seas, wherein the ſaid Soldiers or Marriners did ſerve, ſetting down the particulars of their Hurts and Services; The Certificate being alſo allowed by the General Muſter Maſter for the time, being in the Realm, or Receiver General of the Muſter Rolls, the Treaſurer and Controller of the Navy; This Soldier or Marriner may repair to any one of theſe Officers of that County, out of which he was preſt; or if he were not preſt, to this Officer of that County where he was born or laſt inhabited, by the ſpace of three years at his Election: And if he be not able to go thither, he may repair to any one of theſe Officers of the County where he doth land. And if any ſuch Soldier or Marriner ſhall thus make to any of theſe Officers, it

is

is the duty of this Officer, to give such a por- CHAP. 5.
tion of relief to him at his present ne-
cessity, as he shall think fit, having respect
to his need, and the commendation of his
service; and this to sustain him untill the
next Quarter Sessions, and then the Justices
of Peace by a kind of Instrument, may grant
him a Pention to be paid by this Officer, so
long as the Statute doth continue, if the
party so long live, and it be not duly revok-
ed. And this must be always paid by suc-
ceeding Treasurers quarterly. But the same
present sum so given, or yearly Pention so
granted, must not exceed Ten pound in
gross or *Per annum* to a common Soldier, nor
the sum of Fifteen pound to any that hath
borne Office under the degree of Lieutenant,
nor the sum of Twenty pound to any that
hath been a Lieutenant. And these Pen-
tions, the Justices at their Quarter Sessions,
may upon causes alter at their pleasure. And
these Marriners and Soldiers, when they
Land in the way of their travel, before they
can get the confirmation of their Certificate,
must have competent allowance from the
Treasurer of every County as they pass from
the place of their Landing. 3. They are to
keep a book, and therein to Register all the
Certificates they do receive and allow, and
all their receipts and disbursments. And if
any of them do refuse any Certificate, he
must set down the reasons of his refusal un-
der it, or on the backside of it. 4. They
are at the end of their year, to give up a just
account to the succeeding Treasurers, of all

CHAP. 5. their receipts and disbursments, within the time of their Office, and then also if they have any money in their hands, they are to deliver up the same to the succeeding Treasurers; And this, they must do within Ten days after *Easter* Sessions. And if any such Officer so chosen, shall refuse to execute his Office, he may be fined for it by the Justices of the Peace: And if any such Officer shall wilfully refuse to give relief to a Soldier or Marriner as aforesaid, the Justices of the Peace may fine him for the same, according to their discretion: And if any such Officer, his Executors or Administrators, shall not give up his accompt within the time aforesaid, or shall be otherwise negligent in the execution of his Office; The Justices of the Peace at the Sessions, may assess such fine upon him, his Executors or Administrators, as they think fit, so it be not under Five pounds. And all the fines and forfeitures happening for the breach of this Statute, must be imploy'd by these Officers to the uses aforesaid. And if any of the County Stock, shall be left in their hands, it must be disposed to the use of the poor, in such sort as the Justices of Peace shall appoint. *Stat. 43 Eliz. Ch.* 3. 5. These Officers now by the Ordinance of *May*, One thousand six hundred forty seven, are also to receive the money Rated upon the County by the Justices of the Peace, at their Sessions for the relief of the maimed Soldiers and Marriners: And the Widows and Orphans, of such as have died in the service of the Parliament during

during the late Wars; And this they are to pay out thus. CHAP. 5.

1. To any such maimed Soldiers and Marriners, as by Warrant under the Hand of two Justices of Peace they shall be appointed, until the next Quarter Sessions.

2. And then as by the Petition, there it shall be setled.

3. To the Widows and Orphans so much as two Justices of Peace shall set down.

CHAP.

CHAP. VI.

Of the Treaſurers of the County Stock, for relief of the Priſoners in the *Kings-Bench* and *Marſhalſey*.

Numb. 1. What they are, and how they are choſon.

THE Treaſurers of the County Stock, for the relief of Priſoners in the *Kings Bench* and *Marſhalſey*, and for the relief of Hoſpitals and Alms-Houſes within the ſame County, are certain Officers yearly appointed by the Juſtices of Peace, to have the charge of the Receipt and Diſburſements of the money, taxed and levied upon the whole County yearly, for the relief of the Priſoners in the *Kings Bench* and *Marſhalſey*; and for the relief of Hoſpitals and Alms-Houſes within the ſame County; for the Juſtices of Peace are yearly at their Quarter

Quarter Sessions, about *Easter*, to chuse and appoint two persons of the County, Officers for this purpose; and the men so appointed [by the words of the Statute] must be such men, as at the Tax of the Subsidy last before were taxed at Five pounds Lands, or Ten pound Goods at the least, or near of that value. And these are to continue in their Office but one year, and then others are to be chosen. The Office and Duty of these Officers doth consist in these things. CHAP. 6.

1. They are to receive of the High Constables of the Hundreds quarterly, the sums of money rated and taxed by the Justices of the Peace, upon every Parish, for the relief of the poor prisoners in the *Kings Bench* and *Marshalsey*; and for the relief of the poor within the Hospitals and Alms-Houses within the County: And if in case there be any default by the Petty Constables, or High Constables, or by the Church-wardens in the rating, levying, or payment of these sums, so as thereby they make any forfeiture: These Officers (and as it seems, without any Warrant from the Justice of Peace) are to levy the same by sale of the Offenders Goods, rendring to the party offending the overplus, if there be any, for the Parishioners; and in their default, the Petit Constables and Church-wardens are to distribute the Rate of the Justices of the Peace. And this Rate, if neither the Parishioners, nor Constables and Church-wardens do make, any Justice of Peace, in or near the place may make it; and being made, the *Numb.* 2. Their Office and Duty.

Constables and Church-wardens may levy it by distress and sale of Goods: And for lack of distress, the Justice may send the party to Prison, there to abide till it be paid, without Bayl or Mainprize.

2. This money so by them received, they must pay over (and as it seems in convenient time after the Receipt thereof) to the Lord Chief Justice of *England*, and Knight Marshal for the time being, equally to be divided to the uses aforesaid, taking their acquittance for the same; or in default of the said Chief Justice, to the next ancientest Justice of the Upper Bench.

3. They are to pay yearly, by a quarterly payment, such a sum of money as shall be set down by the Justices of Peace, at their Quarter Sessions, unto the Masters and Governors of the Houses of Correction; The which if they do refuse or neglect to do, the same Masters or Governors (without any other Aurhority) may levy the same on the Goods of the same Treasurers, by sale of their Goods, rendring to them the overplus.

4. The surplusage of the money by them received, they must distribute and bestow for the relief of the poor Hospitals of the same County, and for the relief of those that shall sustain losses by Fire, Water, the Sea, or other Casualties, according to the discretion of the Justices of the Peace of the County.

5. They are at the end of their year, at *Easter* Sessions, to give an account to the succeed

ſucceeding Treaſurers of all their Receipts and Diſburſements in the time of their Office: And then alſo, if they have any money in their Hands, they are to deliver up the ſame to the ſucceeding Treaſurers: And if any Treaſurer ſo elected, as before, ſhall wilfully refuſe to take upon him the ſame Office of Treaſurerſhip, or to diſtribute and give relief, or to account according to that Order the Juſtices ſhall ſet down, the Juſtices may Fine him for the ſame, at their Seſſions, according to their diſcretion, ſo it be not under Three pound: And all the Fines and Forfeitures for the breach of any Branch of the Statute of 43 *Eliz.* c. 2. muſt be imployed to the uſes laſt aforeſaid, as the Juſtices ſhall appoint, Stat. 43 *Eliz.* 2. 7 *Jac.* 4.

CHAP. 6.

CHAP. 7.

Of the *Collector* of the money for the relief of the Prisoners in the Common Gaol, and his Office.

Numb. 1. What he is, and how he is chosen.

THE Collector of the money for the relief of the Prisoners in the Common Gaol, is an Officer appointed by the Justices of the Peace, to have the charge of the receipt and disbursment of the money taxed and levied upon the whole County, for the relief of the Prisoners in the Common Gaol. For the Justices of the Peace at their Quarter Sessions, are to choose and appoint some sufficient person, living neer to the Common Gaol of the County; as a Collector to receive and distribute the money assessed by them upon the County, for the

the relief of the prisoners in the Common Gaol: And this Officer may be in his Office for longer time then One year. 14 *Eliz.* 5. CHAP. 7.

The Office and duty of this Officer, doth consist onely in these things.

1. That he be ready at every Quarter Sessions, to receive from the High-Constables of the Hundreds, the moneys Rated by the Justices of the Peace on every Parish, for the relief of the prisoners in the Common Gaol of the County. *Numb.* 2. His Office and duty.

2. That he do weekly pay and distribute the same to the same prisoners in such sort as the Justices of Peace shall appoint. And if he offend in either of these things, he shall forfeit for the same offence Five pounds.

FINIS.

A TABLE OF THE Principal Matters Contained in this Book.

Church-wardens.

What they are, and how they are made, Chap. 1. Numb. 1.
Their Office, Numb. 2.
Action by or against them, Num. 3.
About Church Goods, Numb. 3. 8.
About repair of the Church, Numb. 4.
About provision of Bread and Wine for the Sacrament, Numb. 4.
About disposal of Seats, Numb. 5.
About Rates, Numb. 6. 9. and 12.

About

About money given to charitable uſes, Numb.10.
About May-Poles, Ibid.
About Stage-plays, Ibid.
About Superſtitious Reliques, Ibid.
Againſt profaners of Gods name or day, Numb.1. 10 & 11.
Againſt him that diſturbeth a Miniſter or abuſeth the Sacrament, Numb.11.
Againſt them that eat meat in Lent, Numb.12.
About the poor, Ibid.
Againſt Drunkards, Numb. 13.
About Surveyors of the Highways, Ibid.
About a Rogue, Ibid.
About a Preſentment, Ibid.

Overſeers of the Poor.

What they are, and how made, Chap. 2. Numb. 1.
Their Office, Ibid.
About ſetting poor on work, Numb.3.
About binding Apprentices, Numb. 4.
About relieving the poor, Numb.5.
About ſettling the poor, Numb.6.
About Rates, Numb.7.
About making a Preſentment, Numb.8.
Againſt ſuch as profane the Lords day, Numb.9.
Againſt Swearers, Numb.10.
About Superſtitious Monuments, Ibid.
About Rogues, Ibid.

Supraviſors of the Highways.

What they are, Chap.3. Numb.1.
Their Office, Numb.2.

Governor

Governor of the Houſe of Correction.

What he is, and how choſen, Chap. 4. Numb. 1.
His Office and Duty, Numb. 2.

Treaſurers of the County Stock.

What they are, and how choſen, Chap. 5. Numb. 1.
Their Office and Duty, Numb. 2.

Treaſurers for relief of Priſoners in the *Kings Bench* and *Marſhalſey*.

What they are, and how choſen, Chap. 6. Numb. 1.
Their Office and Duty, Numb. 2.

Treaſurer for the relief of the Priſoners in the Gaol.

What he is, and how choſen, Chap. 7. Numb. 1.
His Office and Duty, Numb. 2.

FINIS.